

TRIBAL CONSULTATION

DRAFT REVISIONS TO FEDERAL ACKNOWLEDGMENT REGULATIONS
(25 CFR 83)

PARAGON CASINO RESORT

MARKSVILLE, LOUISIANA

AUGUST 6, 2013

Panel Members:

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Affairs

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Indian Affairs

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BY LARRY ROBERTS:

My name is Larry Roberts. I am the Deputy Assistant Secretary for Indian Affairs. It is out of respect for Chief Earl Barbry's family that we are going forward with this tribal consultation and public meeting this morning. Shortly after Chief Barbry passed we reached out to his family, and his family asked that we go forward with both of these meetings. So as you all can understand, there's no one from leadership that's available this morning from the Tunica Biloxi Tribe, so I would ask that we take a moment of silence at in memory of Chief Barbry at this point in time.

In terms of today, what we are going to do is I am going to ask Katie Chinn from Solicitor's office to go through the presentation; it should take about fifteen to twenty minutes. At that point we will open it up for comments from tribal representatives. A couple of points to flag at the onset,

1 that is that the redlined version that
2 everyone has of the regulations, that's
3 the redline against the existing
4 regulations. As we are going through
5 this rule making process, we will change
6 the language in the regulations to plain
7 language. It's just something that we
8 do generally as we are promulgating or
9 amending new rules. So whatever the
10 proposal we move forward with, it will
11 put in plain language. In the interest
12 of time, we are going to go forward with
13 the presentation this morning, and then
14 we will hear comments from tribal
15 representatives.

16 BY KAITLYN CHINN:

17 Again, my name is Katie Chinn. I'm
18 a citizen of the Wyandot Nation of
19 Oklahoma and I work in the Solicitor's
20 office. There are three ways in which
21 the U.S. Government can acknowledge or
22 recognize an Indian tribe. The first is
23 as a result of a Federal court decision.
24 The second is through legislation from
25 Congress. And the third is

1 administratively, which is a
2 determination by the Assistant Secretary
3 of Indian Affairs. And that's what we
4 are talking about today. Before 1978
5 the assistant secretary reviewed
6 petitions by groups seeking Federal
7 acknowledgment as tribes. On September
8 5th, 1978, the Department promulgated
9 regulations that established a uniform
10 process for the assistant secretary to
11 review petitions. In 1994, the
12 Department revised the regulations,
13 leaving the criteria unchanged, but
14 adding a section for unambiguous
15 previous Federal acknowledgment. In
16 2000, 2005 and 2008, the Department
17 published guidance with internal
18 processing changes but did not change
19 regulations themselves. Of the five
20 hundred sixty-six (566) Federally
21 recognized tribes, seventeen (17) were
22 recognized through the Part 83 process.
23 We've heard that and many have
24 criticized the process as broken. They
25 say it's too long, that it's burdensome,

1 that it's expensive, that it's
2 unpredictable, and that it's not
3 transparent. In 2009, Secretary Salazar
4 testified before the Senate Committee on
5 Indian Affairs and committed to
6 examining ways to improve the process.
7 In 2010, the Assistant Secretary's
8 office, the Solicitor's office, and the
9 Office of Federal Acknowledgment worked
10 on a draft of revisions to Part 83. In
11 2012, Assistant Secretary representative
12 Brian Newland identified guiding
13 principles, which are the goal. In
14 2013, Assistant Secretary Washburn
15 testified before the House Committee on
16 Indian and Alaskan Native Affairs, and
17 promised to release a discussion draft
18 of the initiatives. On June 21, the
19 assistant secretary released the
20 discussion draft. And that discussion
21 draft was developed by a DOI workgroup
22 that consisted of people from the
23 assistant secretary's office, people
24 from the Office of Federal
25 Acknowledgment, and people from the

1 solicitor's office. The goals of the
2 discussion draft are transparency.
3 Making the petitioning process more
4 easily understood and open. Timeliness.
5 Moving petitions through the process,
6 responding to requests for information
7 quickly, while ensuring an appropriate
8 level of review. Efficiency. Being
9 mindful of limited resources of
10 petitioners and the government.
11 Flexibility. Accounting for the unique
12 histories of tribal communities. And
13 integrity. Maintaining the accuracy and
14 integrity of decisions. This slide
15 provides an overview of the primary
16 changes the discussion draft puts
17 forward. First is the discussion draft
18 eliminates the Letter of Intent. It
19 also adds for expedited favorable and
20 negative proposed finding. It clarifies
21 some criteria. It allows a petitioner
22 to withdraw after active consideration
23 begins and any time before a proposed
24 finding is released. It provides for
25 automatic final determinations under

1 certain circumstances. It examines who
2 issues the final determination. And it
3 eliminates Interior Board of Indian
4 Appeal's review. And it also includes
5 placeholders for input. The elimination
6 of the Letter of Intent. So under the
7 discussion draft the process begins when
8 a petitioner files a documented
9 petition. And that's meant to
10 streamline the process. The draft also
11 provides for expedited negative review
12 at the beginning of active
13 consideration. Under the expedited
14 negative review, the Department looks at
15 three criteria. First is criterion (e),
16 descent from historical Indian tribe.
17 (F), membership principally of persons
18 who are not members of another
19 acknowledged tribe. And (g), Federal
20 relationship was not terminated or
21 forbidden. If a petitioner is not able
22 to establish any of these three
23 criteria, the Department issues a
24 proposed finding declining to
25 acknowledge the group within six (6)

1 months after beginning active
2 consideration. If the petitioner meets
3 all three of these criteria, then the
4 petitioner proceeds to a full evaluation
5 of the petition or an expedited
6 favorable evaluation if that was
7 asserted. The draft also puts forward
8 an expedited favorable review. And this
9 is only done if the petitioner asserts
10 that they are eligible for that review.
11 And it's done after the petitioner
12 passes the expedited negative review of
13 criteria (e), (f), and (g). A
14 petitioner is eligible for an expedited
15 favorable if it can show either that it
16 has maintained since 1934 a reservation
17 recognized by the state, and continues
18 to hold that state reservation. Or that
19 the U.S. has held land for the group at
20 any point in time since 1934. So if a
21 petitioner can provide a governing
22 document, which is criterion (d), and it
23 meets either of the above criteria, in
24 addition to meeting criteria (e), (f),
25 and (g), then the Department will issue

1 a proposed finding acknowledging the
2 tribe within six (6) months after active
3 consideration begins. If a petitioner
4 does not meet those criteria, then the
5 Department will undertake a full
6 evaluation. The draft also deletes
7 criterion (a), which is external
8 observers identify the group as Indian.
9 And this is under the idea that
10 identification of an Indian tribe
11 shouldn't require outside identification
12 as such. The discussion draft also
13 modifies criteria (b), which is
14 community, and ©, which is political
15 influence or authority. And under the
16 discussion draft the Department only
17 looks at 1934 to present. Though this
18 is intended to limit the administrative
19 burden on petitioners and the
20 government, we chose 1934 because that
21 was the year that signified a shift in
22 Federal Indian policy from assimilation
23 and allotment to self determination.
24 The discussion draft does not change
25 criteria (e), descent from a historical

1 tribe. So it does suggest that
2 historians' and anthropologists'
3 conclusions are allowed as evidence of
4 descent from a historical tribe. And
5 also the discussion draft asks for your
6 input on more objective criteria. So we
7 have placeholders in criteria (b), which
8 is community, and criteria (e), which is
9 descent from a historical tribe. We're
10 asking for your input on whether we
11 should add numbers to make that close
12 criteria more objective. Under the
13 discussion draft a petitioner can
14 withdraw their petition at any time
15 before a proposed finding is released.
16 In this situation the Department will
17 cease consideration upon withdrawal, and
18 the petitioner will be placed at the
19 bottom on the numbered register if they
20 later resubmit their petition. Under
21 the current regulations a petitioner
22 cannot withdraw their petition after
23 active consideration begins. The draft
24 also provides for an automatic final
25 determination if a proposed finding is

1 positive and if the Department does not
2 receive any timely arguments in
3 opposition to acknowledgment from either
4 an acknowledged tribe located in the
5 same state or from the state or local
6 government where the petitioner's office
7 is located. The discussion draft also
8 looks for your input about who should
9 issue the final determination. Under
10 the current regulations, the Office of
11 Federal Acknowledgment prepares and the
12 assistant secretary's office issues both
13 the proposed finding and the final
14 determination. What we are hoping for
15 feedback from you is whether the Office
16 of Hearings and Appeals or the assistant
17 secretary's office should issue the
18 final determination. The Office of
19 Hearings and Appeals conducts hearings
20 and decides appeals from decisions of
21 the DOI bureaus and offices and is meant
22 to be an impartial forum. The draft
23 also deletes Interior Board of Indian
24 Appeals review. Currently, a final
25 determination from the assistant

1 secretary under the current regulations
2 is the only Assistant Secretary/ Indian
3 Affairs decision appealable to the
4 Interior Board of Indian Appeals. The
5 discussion draft deletes the opportunity
6 to challenge the final determination
7 before the IBIA, which exists currently
8 for petitioners and interested parties.
9 Under the new draft all challenges to
10 final determinations are instead filed
11 in Federal court. Under the draft the
12 new regulations would automatically
13 apply to anyone who hasn't yet reached
14 active consideration. And anyone who is
15 on active consideration would have the
16 choice to proceed under the new
17 regulations or the old regulations. The
18 draft also provides for re-petitioning
19 for petitioners that have been denied
20 Federal acknowledgment under previous
21 regulations if a petitioner can prove by
22 a preponderance of the evidence that a
23 change from the previous version to the
24 new version warrants reversal of the
25 final determination. We are also

1 seeking comment from you on anything in
2 the draft that you think needs revision.
3 So that's just very open-ended.
4 Anything that you think needs to change.
5 Specifically we're wondering if the
6 definitions should be revised, and, if
7 so, how. We're also looking for your
8 input on whether we should have a
9 standard form for the petitioners or
10 whether that standard form should be
11 optional. As I said before, we are
12 looking for input from you on the
13 suggested forms of evidence for
14 community and whether we should have
15 specific percentages in there. We are
16 also looking for feedback on whether we
17 should incorporate the bilateral
18 relationship idea into criterion ©,
19 which is political influence or
20 authority. And we're looking for input
21 on what the percentage should be for
22 criterion (e), descent from a historical
23 tribe. So what percentage of the
24 group's membership should descend from
25 the historical Indian tribe. And also

1 if there are any other objective
2 standards that could be used to show
3 descent. We are also looking for input
4 on page limits. Do you think that we
5 should have page limits for each of the
6 documents required under this process.
7 Comments on the draft are due by August
8 16th. You can e-mail them or you can
9 mail them to Liz. And going forward, we
10 will be reviewing the comments and
11 making any appropriate changes to the
12 regulations, and then we will be
13 publishing a proposed rule in the
14 Federal Register.

15 BY LARRY ROBERTS:

16 Thanks, Katie. So that's sort of a
17 brief overview of the discussion draft.
18 As Katie said, this is - you know, we've
19 issued a discussion draft before we even
20 started the rule making process here to
21 get as much input from everyone as
22 possible. So with that, I will turn now
23 to the tribal leadership in terms of any
24 questions or comments that they have.
25 Before everyone speaks, everything is

1 being transcribed, so if you could just
2 state your name and which tribe you are
3 with.

4 BY AUDREY GARDNER:

5 I'm Audrey Gardner, Eastern Shawnee Tribe of
6 Oklahoma. If you could go back to 11. One
7 of the problems I see initially is that
8 second paragraph where it says an
9 acknowledged tribe located in the same state
10 as petitioner. When you are talking about
11 the Shawnee tribe, we have a historical
12 territory of twenty-eight (28) states and
13 were removed to Oklahoma. So I think for us
14 that would pose a problem. You know, we were
15 removed, so we're located in Oklahoma. I
16 don't really see why we would not have input
17 on somebody petitioning in Ohio or Missouri,
18 Mississippi, somewhere like that where we
19 have a historical presence there. Initially
20 that's the one that stood out to me as being
21 problematic.

22 BY CEDRIC ROBERTS:

23 Cedric Sunray, Mowa Band of Choctaw Indians. The
24 question I have with that is how it's framed.
25 I know Earl Barbry, some of our federal

1 tribes stood up for our tribal community. In
2 the packet I handed out you will see a letter
3 from him supporting our tribe's Federal
4 recognition. The gentleman whose funeral
5 many of our tribal members are at today. And
6 my question is why should Federal tribes with
7 gaming venues in close proximity to
8 petitioning tribes have any say whatsoever in
9 this process. Our tribe, the MOWA Band of
10 Choctaw Indians and the Poarch Creek
11 collectively spent Fifteen Million Dollars
12 against our Federal petition and used Jack
13 Abramoff as the catalyst to fight our Federal
14 petition. He then served six years in jail
15 as a convicted felon for his role in fighting
16 against our Choctaw community. That's a well
17 documented process. So is it expedient to
18 take Federal tribes in the regional areas of
19 petitioning tribes, not groups, and use them
20 as a barometer for recognition when it's very
21 clear as to why they fight against those
22 communities. I'm not talking about just any
23 old group. I'm talking about tribes like in
24 the back, of historically attended
25 generationally Federal Indian boarding

1 schools who live on state recognized Indian
2 reservations. My tribe is intermarried with
3 thirty (30) different Federal tribes,
4 including members of the Cherokee Nation,
5 Creek Nation of Oklahoma, Eastern Band of
6 Cherokee Indians, and many, many more,
7 Kickapoos from Kansas, Ottawas, Navajo
8 Nation. That's my question. Why would they
9 be allowed to even have a say.

10 BY LARRY ROBERTS:

11 So what we are talking about here
12 is one part of the discussion draft that
13 essentially embodies the Department's
14 current practice, which is if a - this
15 is only limited to a proposed favorable
16 finding. If the Department issues a
17 proposed favorable finding, and
18 essentially no governments within the
19 area object to that favorable finding,
20 that it go automatic. So this is an
21 automatic finding favorable. So this is
22 the discussion draft. We've gotten some
23 comments on this sort of across the
24 board. We appreciate your earlier
25 comment. We appreciate your comment.

1 It's something we will look at as we are
2 looking forward with the proposed rule.

3 BY PERRY SHELL:

4 Perry Shell, Eastern Band of Cherokee. Flying out
5 here I had the opportunity to sit next to a
6 gentleman from Florida. And he claimed to be
7 part Cherokee. I don't know how many people
8 come through the park; it's nine million, I
9 think now, that come through the national
10 park. We're at the eastern entrance. But
11 the vast majority claim to be part Cherokee.
12 There are, I'm not sure how many groups now,
13 over two hundred (200) that claim to be
14 Cherokee that many of them are seeking
15 Federal recognition. So if have twelve
16 percentage of petitioning groups just show
17 they derive their ancestry from a historical
18 tribe, I think a hundred percent should show.
19 Otherwise, I think a good portion of the
20 United States would be members of the
21 Cherokee Nation. I mean, I think what that
22 does, I think, when we lower this, it waters
23 down the authenticity of those people who
24 fought and who protected their culture and
25 their society for years. You know, your

1 culture is what defines you as a people.
2 It's your world view, it's what you eat, it's
3 what you think. It's how you live your life.
4 You know, where we are located in Cherokee,
5 we probably had the most extensive
6 archaeological study ever done in the
7 southeast where we have our school. We
8 showed in that location over ten thousand
9 years of continuous habitation. To us it is
10 insulting many times, and there may be people
11 out there that have a percentage or they are
12 a part Cherokee. There's been intermarriage,
13 you know, for three hundred years now or
14 more. But I think that when we lower the
15 standards here we take the authenticity of
16 all native people. This process, when you
17 put an arbitrary number like 1934 on it, too,
18 you know, our interaction and many tribes in
19 the east with non Indians goes back to the
20 1600s or more documented, you know. Why
21 start at 1934? Is this to help some tribes
22 that can't prove their authenticity, to give
23 them some authenticity? I think that we need
24 to be very careful when we look - I know we
25 are going to put this in writing, but I think

1 this is so important to the future of all
2 tribes. Especially, I think, as more tribes
3 have interaction in this greater society that
4 we will become communities more and more. I
5 think this is a step toward that, the
6 advancement of Indian tribes whenever you
7 allow so many others to become a tribe, a
8 sovereign, reigning, self governing nation.
9 That's just an opening statement. There are
10 other items I want to talk about later.
11 Thank you.

12 BY LARRY ROBERTS:

13 Is there anyone here that hasn't
14 had a chance to speak yet that would
15 like to speak at this point in time?

16 BY WILSON PIPESTEM:

17 I'm Wilson Pipestem. I'm here with the Eastern
18 Band of Cherokee Indians. I just want to
19 start off by thanking the Department, Bureau
20 of Indian Affairs and the officials who are
21 here endeavoring to streamline a process that
22 certainly cries out for some changes to
23 ensure that the process becomes more
24 efficient for both the petitioners and the
25 Interior Department decision makers. I think

1 we agree that the process is inefficient,
2 takes too long, needs to be more transparent.
3 And the principles that Assistant Secretary
4 Washburn has put forward makes sense as a
5 basis for changing the regulations. So I do
6 think that, and on behalf of Eastern Band,
7 that this effort to make the regulations more
8 fair, fundamentally more fair are well
9 received. At the same time we have concerns
10 about lowering the standards. So as
11 Councilman Perry Shell has said, the 1934
12 date, we are still trying to understand
13 better. We assume that that meant that the
14 Indian Reorganization Act was a basis for
15 that number change or that year change. But
16 based upon our experience, tribes particular
17 in this area, native people who are from this
18 general region can demonstrate a relationship
19 or can document histories, many back to the
20 1600s. So picking a date can be somewhat
21 arbitrary for determining historical
22 existence, but it seems to me as a principle,
23 maintaining and requiring of showing
24 historical tribal identity is something that
25 is particularly important to ensure and

1 maintain legitimacy of the Federal
2 acknowledgment process and, as Councilman
3 Shell put it, the authenticity of existing
4 Federally recognized tribes. I just want to
5 make one quick - there's a number of other
6 statements I know other council members here
7 are going to make statements as well. But I
8 just want to open by thanking you by
9 endeavoring to begin this process. One more
10 thing, though. You mentioned the August date
11 for providing comments is August 16th. I
12 would like to request that we could be
13 granted an extension because, one, we would
14 like to look at the other transcripts to be
15 able to comment on the draft rule with as
16 much understanding of the rule as we can.
17 This is our first time to go through this
18 presentation. It was very helpful. But to
19 kind of better understand where the
20 Department, what its goals are through this
21 consultation process, we could use more time.
22 I don't think it has to be an extensive
23 period of time, but additional time, maybe
24 thirty (30) days, to provide comments so they
25 can be as prepared a possible.

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BY LARRY ROBERTS:

Thanks. And this is, again, an initial step that we normally start just a proposed rule. So there will be additional opportunities of time. But we will take that request under advisement in terms of extending the deadline. In terms of the 1934 date, it is tied to the shift in Federal policy from one of allotment, assimilation to tribal self determination. So it's tied to the passage of the Indian Americanization Act. That doesn't preclude petitioners from submitting information prior to 1934. But it's a starting date for all of the criteria except for descent from a historic tribe.

BY CEDRIC SUNRAY:

What I tend to be hearing in all these meeting is the term authenticity. So when I was a student at Haskell Indian Nation University and I'm sitting next to a Cherokee Nation of Oklahoma tribal member and he shows me a CDIB and it says 1/1024. Is that individual

1 someone that was raised in the Cherokee
2 culture, spoke the Cherokee language, was
3 affiliated with historic Cherokee churches
4 and/or ceremonial grounds? Is this someone
5 that they're referring to in terms of
6 authenticity? Or are those individuals on
7 the board back there who generationally
8 attended the Federal Indian boarding schools,
9 including my own family, whose yearbook
10 photos are there, whose bloodlines are listed
11 on the board by the Federal government, and
12 who attended the boarding schools when a
13 requirement by the Bureau of Indian Affairs,
14 became that, and the Bureau of Indian
15 Education that stated you must be one quarter
16 or more Indian blood to attend these schools.
17 But yet those tribes sit in denial. In the
18 Cherokee Nation they add fifteen thousand
19 tribe members every six month period, of
20 which eighty-five percent (85%) are less than
21 one quarter Cherokee by blood, with three
22 hundred forty thousand tribal members. I
23 lived in Tahlequah, Oklahoma. I was a
24 Cherokee language instructor at Tahlequah
25 High School and Rogers State University, and

1 my wife worked at the Cherokee Nation Health
2 Department. We know very, very well the
3 community. So I think terms like
4 authenticity need to be stricken in terms of
5 defining what that is. Because I have lived
6 the social reality of those individuals, and
7 they certainly weren't people that were
8 quote, unquote, authentic, as authenticity
9 being thrown around here, "authentic."

10 BY LARRY ROBERTS:

11 So one of the things that we're
12 looking at in terms of the
13 acknowledgment process that Katie set
14 forth is what criteria should we be
15 looking at in terms of "community,"
16 quote, unquote, what objective criteria
17 can we use to demonstrate so that
18 everyone knows when a petition comes in
19 that those objective criteria are met or
20 not met, and what is a clear process.
21 And I think one of the challenges we
22 have is having objective criteria so
23 everyone knows what the rules of the
24 road are, but flexible enough so that,
25 you know, every tribe's history is

1 unique, right, and so we need to have
2 that objectivity but also have the rules
3 flexible enough to cover different
4 situations. So what we are really
5 looking for in terms of comments from
6 everyone is objective criteria. What
7 are the objective criteria that we use
8 and, you know, how can we best move
9 forward and prove this process. So
10 thank you for your comments.

11 BY AUDREY GARDNER:

12 Audrey Gardner, Eastern Shawnee Tribe. Is it
13 Cedric?

14 BY CEDRIC SUNRAY:

15 Yes.

16 BY AUDREY GARDNER:

17 I can understand the comment you just made as well
18 as the earlier comment about tribes that are
19 in the state. I guess the point I would like
20 to make is I think when there is a group
21 coming forward wanting to be a band of a
22 certain tribe of associated descendent from a
23 certain tribe, I think going back to that
24 tribe is, to me, a logical step. I mean,
25 there are three examples I want to give with

1 the Shawnees in particular. The first was in
2 one of the national park services in the
3 Cumberland Gap, there they advertised on a
4 national park site that there was to be a
5 (inaudible) dance. Now, without really
6 divulging information, those are ceremonials.
7 Those aren't things that get advertised.
8 Those aren't things that should be held at
9 national parks. So when you have groups
10 coming in trying to be Indian, trying to
11 present to the public things that are sacred
12 to us that are ceremonials, I think that's
13 where we take offense to that. That's where
14 - you know, we fought for so long to maintain
15 things that were taken away from us that we
16 do hold them sacred. And when you are
17 misrepresenting them or over representing
18 them to the public, that's offensive. And I
19 think a lot of times that's where these
20 French groups or these state groups give a
21 bad name to groups that...

22 BY CEDRIC SUNRAY:

23 Whoa, whoa.

24 BY AUDREY GARDNER:

25 Let me finish what I was saying. Give a bad name

1 to groups who do have that history, who have
2 maintained that. Because there are groups
3 out there that don't know or they read on the
4 internet and try to learn ways. And there is
5 that difference there between people who have
6 maintained that and who do have that culture
7 and that heritage and people who don't and
8 who misrepresent that. And I think that
9 gives a bad name, not only to the Federally
10 recognized tribes, but to tribes that are
11 trying to gain that recognition and having
12 those other groups represent what their cause
13 is which is not true.

14 BY B. CHERYL SMITH:

15 B. Cheryl Smith, Jena Band of Choctaw Indians.

16 Recognized in 1995. We began this mission in
17 the '70s to get recognition. I think we are
18 the perfect example of what a tribe has to go
19 through to meet the seven (7) criteria to
20 show that you are a real Indian tribe. To
21 meet the criterion we've had inefficiencies.
22 You name it, we have done it. Have had to
23 have a (inaudible). I mean, we have done
24 the whole gambit of whatever Federal
25 government to prove that we were an Indian

1 tribe. My first question is, I see that
2 you've had all these comments, Oregon,
3 California, Michigan, Maine. Have you had
4 good input and have you had good tribal
5 tribes come to these meetings or are you
6 mostly receiving state tribes who were
7 against the policies? What is your ratio of
8 Federal tribes coming to these consultations?

9 BY LARRY ROBERTS:

10 I would say general attendance of
11 Federally recognized tribes have been
12 relatively low. A handful in Oregon, a
13 handful in California, Michigan. So
14 it's been primarily the public and non-
15 Federally recognized tribes that have
16 attended these sessions.

17 BY B. CHERYL SMITH:

18 I assumed that. I assumed that. Well, today is a
19 bad day for people who are traveling and
20 coming to something like this. But I am just
21 speaking for my state of Louisiana. I am
22 speaking because, I mean, from the 70s, and I
23 know what my people fought for to become
24 recognized. It is not an easy process. This
25 state of Louisiana has so many Federal tribes

1 - excuse me. I mean state recognized tribes,
2 I can't even begin to name them. I don't
3 even know their names. It's such a simple
4 process here to get state recognition. I
5 honestly believe that we are the last tribe
6 that's going to be recognized in the state of
7 Louisiana. And I hate that; the Houmas have
8 fought this battle and fought this battle.
9 But at some point I don't - like Cherokee,
10 you have to have criteria, you have to meet
11 those criteria. How can we (inaudible) when
12 my people suffered and died and were gone
13 before we could ever prove that we were
14 Indian people. And never were able to
15 receive any services from the Bureau of
16 Indian Affairs. But I do see points where
17 there are tribes out there. This is
18 overwhelming. It is expensive. I can't tell
19 you dollars that we spent to fight to get
20 recognized. And if it hadn't been through
21 AMA grants and so forth we would have never
22 reached recognition as we did in 1995. But
23 there has got to be some criteria. I think
24 Federal tribes have got to stand up and say
25 there are criteria; these other tribes have

1 to meet them just like our tribe met them.
2 But there has to be a place - and a lot of
3 these state tribes, there's no way, I know
4 there's no way they can meet these seven (7)
5 criteria that we did. But there are
6 legitimate tribes out there who have been
7 turned down. So there is the few tribes out
8 there I know who should get another chance.
9 And that's not the kind of communities that -
10 I see both worlds, but in Indian country, I
11 know what my people went through, I know what
12 we fought for this, and I'm not going to
13 stand by and let twenty (20) tribes in
14 Louisiana get Federal recognition just
15 because they want it and they say they are -
16 that's not fair. We have John Darden, the
17 Chitimacha. I don't know how you stand on
18 this Earl - Earl, God. John Paul. But it's
19 a very emotional day and I know that Earl
20 supported the Indian people. He knew who the
21 Indians were just as I do. And it is a hard
22 thing to prove that you are Indian first.
23 And it shouldn't be like that. But the
24 Federal government makes it like that. But
25 then if your tribe has fought hard and

1 received it, other tribes should fight the
2 right way. You can either get along with the
3 Federal government or you can buck the
4 system. It will get you nowhere. I don't
5 care how much - if you're a teacher, those
6 things don't matter. When you deal with the
7 Federal government, you have to cooperate and
8 you have to at some point realize if you are
9 fighting for something, you have to get along
10 with people and you do have to follow rules.
11 And that's not right, but we did that and we
12 finally prevailed. There is a way to do it.
13 If you go by the rules, if you abide, you
14 meet the criteria, and there are too strict
15 criteria; it takes too long. When we were
16 waiting recognition, I think we were a
17 hundred and something on that list. How
18 crazy is that? I think that we were told
19 that they only got to three a year. That's
20 crazy. How can you wait that long. It was
21 terrible. It was horrible. Things need to
22 be changed. They do. Everything needs to be
23 changed. But there are some changes I think
24 that we cannot just loosely change, because
25 that's not right for the real Indian people

1 who have suffered like my people have and
2 have fought to get recognition. And that's
3 my only comment.

4 BY LARRY ROBERTS:

5 Thank you.

6 BY JULIE WILKERSON:

7 Julie Wilkerson, Jena Band of Choctaw Indians. I
8 didn't start working with the tribe until
9 2000. They were recognized in 1995. But I
10 have had the good fortune and honor of being
11 able to listen to the stories about what they
12 have been through from Chief Smith and then
13 our late former Chief Jerry Jackson. One of
14 the things that a comment was made from the
15 lady with the Shawnee is correct. I think
16 that the Mississippi Band of Choctaw tribe
17 can show that they have emanated from and
18 came from Newton County. And the Mississippi
19 Band of Choctaw were contacted, and they
20 actually sent a letter in saying, yes, the
21 Jena Band of Choctaw were part of our
22 community at one time. I think that was what
23 I understand from Chief Smith or Chief
24 Jackson. That was very instrumental in
25 assisting them also in the process. And I'm

1 sure - because I see two were Federally
2 recognized in 1981. I heard talk about the
3 long term relationship she had with Chairman
4 Barbry where that was during their process of
5 trying to get Federal recognition and support
6 that the Tunica Biloxi, especially Chairman
7 Barbry, supported the Jena Band of Choctaw.
8 BY GENE CROWE:
9 Gene Crowe, Eastern Band of Cherokee. First of
10 all, I'd like to state that we are not a
11 Cherokee Nation; we are the Eastern Band of
12 Cherokee. We're out of North Carolina.
13 BY CEDRIC SUNRAY:
14 And I know that.
15 BY GENE CROWE:
16 So I want to clarify that.
17 BY CEDRIC SUNRAY:
18 Yes, I know that. You don't have to explain that.
19 BY GENE CROWE:
20 Just so you understand that.
21 BY CEDRIC SUNRAY:
22 Yeah, I understand that. You don't have to talk
23 to me like that. Don't talk down to me.
24 BY GENE CROWE:
25 Is this necessary?

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BY LARRY ROBERTS:

Let's just talk about regs, please.

BY GENE CROWE:

The regs is what I'm talking about here. You know, the Eastern Band, we support anybody, any legitimate tribe to be Federally recognized. Chief Smith, I stand with you on the Houma Indians. Those guys, they've been here since back - they've got documentation back in the 1600s. I'll support them a hundred percent. The state tribes, so many pop up every day because, you know, "I want to be an Indian." They wake up one morning "I want to be an Indian." So that happens daily. It happens throughout the United States. We don't support that. And we hope that the rules and the regulations that you guys are putting down here, like Wilson stated earlier here, we want to make sure that those - the standards aren't lowered. There's a process to go through. We are not against anybody going through the process. If you can go through that process and gain Federal recognition, then we support that a hundred percent. You know, we are behind

1 you. But, you know, being a legitimate
2 tribe, we know what it takes to have to do
3 that. We've been there; we've done it. So
4 that's my comments there, sir. I appreciate
5 the opportunity to be able to speak.

6 BY CEDRIC SUNRAY:

7 Can I ask this question of everybody? When you
8 see those people there on those boards, when
9 you see those individuals on those boards
10 that generationally attended Federal Indian
11 boarding schools that were sent there by the
12 Bureau of Indian Affairs. My family attended
13 Choctaw Central High School, a BIE run school
14 on the Mississippi Choctaw reservation where
15 our family members were boarded out because
16 we were not allowed to attend the black and
17 white schools in our area, we were sent to
18 Haskell, we were sent to Bacone, we were sent
19 to Acadia, how with any morality or ethics
20 could you look at this small number of tribes
21 back there - we're not talking about these
22 groups you guys are talking about. Everybody
23 knows that groups spring up all over the
24 place. We all know that. That they
25 certainly should not be Federally recognized

1 tribes. Of course not. There is a small
2 minority, however, that certainly are
3 legitimate communities. And throwing the
4 baby out with the bath water, which is the
5 way the Cherokee Nation has been pumping
6 millions into this...

7 BY LARRY ROBERTS:

8 Sir...

9 BY CEDRIC SUNRAY:

10 Q. Blood quantum is not the issue. But I'm
11 asking them. Are they telling me, these Federal tribal
12 leaders in here, are they telling me that those people
13 on those boards are not Indians? (Referring to
14 historic "non-federal" tribes who attended the Indian
15 boarding schools)

16 BY LARRY ROBERTS:

17 Sir.

18 BY CEDRIC SUNRAY:

19 That's my question.

20 BY LARRY ROBERTS:

21 Right. But the dialogue is between
22 us and you all, not the dialogue...

23 BY CEDRIC SUNRAY:

24 Okay, well, I'm asking you. Those people that
25 were sent to BIE schools by the Bureau of

1 Indian Affairs for generations, are you
2 saying now that the BIA who sent them and who
3 listed their bloodlines, are you saying now
4 that they are not Indians? Because when
5 Odette Norwood, who graduated from Haskell
6 Institute in the 1950s, she's a Nanticoke
7 from Delaware. She applied to attend Haskell
8 in 2008. She's a Haskell Institute graduate.
9 She applied to go back and get her bachelor's
10 degree, and she was rejected. A Haskell
11 Institute graduate was rejected from Haskell.
12 They said she wasn't Indian. She's listed as
13 half Indian by blood by BIA in the 1950s.
14 She attended the school. She was sent there
15 as a thirteen (13) year old, eleven hundred
16 (1,100) miles away from home because she
17 could not attend the black and white schools
18 and because she was an Indian. And now the
19 same agency who sent her there is saying
20 she's not an Indian. So I am asking you are
21 you saying that.

22 BY LARRY ROBERTS:

23 I'm not making determinations.

24 BY CEDRIC SUNRAY:

25 Of course not. That wasn't a question because

1 it's a moral and ethical question that no one
2 wants to answer.

3 BY LARRY ROBERTS:

4 What I need from everyone in terms
5 of comments and suggestions here, in
6 terms of whether it's written comments
7 or verbal comments, I need objective
8 criteria. So if you think...

9 BY CEDRIC SUNRAY:

10 That's my criteria. If you attended a Federal
11 Indian boarding school generationally, your
12 tribe, obviously you should be a Federally
13 recognized tribe. No question about it.

14 BY LARRY ROBERTS:

15 We will take a look at that. Chief
16 Smith.

17 BY B. CHERYL SMITH:

18 Cedric, I understand what you are saying. I don't
19 think anyone is talking down to you today. I
20 don't think Indian people should talk down to
21 Indian people at all, because we know we
22 don't do that. Indian people treat Indian
23 people as brothers and sisters. At least we
24 do. And I don't appreciate your comment, but
25 I will tell you, all those pictures you've

1 got on those board, my tribe could put twenty
2 of those pictures on that board. My people
3 did not go to school either with the whites,
4 nor with the blacks. My mother went to the
5 first grade at thirteen (13) years old,
6 finally.

7 BY CEDRIC SUNRAY:

8 (Inaudible) And I agree.

9 BY B. CHERYL SMITH:

10 Let me speak, please. You're right. I agree with
11 you. I agree with everything you say on that
12 board. But you must meet the set of criteria
13 or either you loosen some of these things up
14 for people like your tribe. And I think that
15 your attitude needs to change. That nobody
16 is fighting you. Nobody is against you. If
17 you can prove that you are an Indian tribe
18 and you meet the criteria just as all of the
19 rest of us had to go through this, then you
20 can get recognition.

21 BY CEDRIC SUNRAY:

22 We meet all seven (7) criteria without question.

23 BY B. CHERYL SMITH:

24 Well, you need to reapply to the Bureau of Indian
25 Affairs. And I think this consultation, I

1 hope, will lead to something that is to the
2 betterment of your people in your tribe. But
3 I think that cooperation is fifty percent
4 (50%) of where you need to go today. And I
5 do appreciate the comments. I hope that they
6 are good comments from all over the country
7 on changing the bar. It is really, really an
8 instrumental thing to get recognized.
9 Because at one point I was ready to give up
10 myself. I knew we were Indian people. And
11 it is very, very hard to do. But if you've
12 got the criteria, you've got the leadership,
13 you can show everything that you've done,
14 there should be some place some time for
15 these groups who are really Indian tribes
16 that have criteria to come back and reapply.
17 At that point, I'm not saying another word.
18 This is my comment. I will just say for
19 twenty (20) years we fought for it; I know
20 what we fought for. I am leaving this
21 meeting. I hope this afternoon that you have
22 a peaceful, peaceful - but I doubt it will
23 be. You may want a security guard in here
24 because some of these tribes I've seen and
25 dealt with this morning or heard this morning

1 already. Indian tribes are not going to
2 respect that kind of talk or comments if they
3 cannot act in a formally civilized brother
4 and sister forum. And I would suggest that
5 you have some security in here. I will come
6 back this afternoon and I would like to hear
7 what these tribes have to say, and I want to
8 know why they think they should be recognized
9 through the state of Louisiana. So thank you
10 for coming. I appreciate all of you. I am
11 going to say my farewell to my dear friend
12 Chairman Barbry. Thank you.

13 BY LARRY ROBERTS:

14 Thank you.

15 BY JOHN DARDEN:

16 John Darden, Chairman of the Chitimacha Tribe.

17 Everything I am hearing is the same thing all
18 the tribes face. Luckily for us as a tribe,
19 we've always been recognized here. So we
20 didn't have to fight for the Federal
21 recognition. We already had it where each
22 government that came in. When the U.S.
23 Government came in back in the 1850s gave
24 some of our lands back. So we've always been
25 recognized. So we haven't had to fight for

1 recognition. But what we have had is, and I
2 hear all the tribes, you know, you have
3 splinter groups. For me, we need to have
4 criteria there that we can live with.
5 Because, yes, there are some tribes now that
6 - Houma, I support Houma as well. They are
7 great friends and have been allies. I've
8 known them for years. My parents and my
9 grandparents knew a lot of the tribal members
10 there. I know they have been fighting for
11 recognition, trying to get it. I hope that
12 one day they do get it. But I don't want to
13 see this loosened up so much where, you know,
14 any group could come in and get it. Because,
15 I mean, there are right now - we have issues
16 all the time. I have people coming to the
17 chairman - the past chairmen have had the
18 same thing where you have people coming out
19 saying they're Chitimacha with no proof that
20 you are Chitimacha whatsoever, no tie to our
21 community. And for us, where our community
22 is - I mean, archeologically, we've been
23 right there for - we've been in southeast
24 Louisiana for a long time. We've been there
25 almost six thousand years. So we've been

1 here a long time. And when you start coming
2 in and saying you're Chitimacha and you're
3 part of the Chitimacha. And you see their
4 Chitimacha names and add three or four
5 different names. For me, when you decide
6 you're going to be a tribe, you know, pick
7 the tribe that you are. I'm Chitimacha.
8 Although I'm half white, my mom is white, I'm
9 Chitimacha. So if you ask me, I'm
10 Chitimacha. For me, first you choose that.
11 And then if there is a tribe - and for us, if
12 there's another tribe in Louisiana claiming
13 to be Chitimacha, I would want the right to
14 respond to that. You know, if they were a
15 group, I would like some comments on that.
16 Because our people would like some say on
17 that, too. We've been here for a long time.
18 But I would like proof. And I do want to see
19 the proof here. And I like the criteria.
20 You maybe need to loosen up a little bit, but
21 also we've got to find a medium that we all
22 can live with. Because we don't want just
23 anybody to get recognized saying they're a
24 tribe.

25 BY CEDRIC SUNRAY:

1 We don't want that either.

2 BY JOHN DARDEN:

3 We've run into that. I've seen people wanting to
4 be destroy mounds and different things in the
5 state, sites that we have, putting poles on
6 them. I've seen so many things over the
7 years with some groups that are wanting to be
8 recognized. I know we've all seen that.
9 We've all seen the education issues. I mean,
10 our grandparents, our great grandparents were
11 sent off to schools elsewhere because we
12 didn't have schools on the reservation. My
13 great grandfather...

14 BY CEDRIC SUNRAY:

15 Your family went to school with my family at
16 Haskell. I've seen pictures of the
17 Chitimachas with us.

18 BY LARRY ROBERTS:

19 If we could have just one person
20 speak at a time.

21 BY JOHN DARDEN:

22 That's all I wanted to say. I do agree - I mean,
23 there are some things that I seen in there,
24 and I will send in some comments on some of
25 this stuff. But I thought it was important

1 to be here today, too, so I could listen to
2 what everyone had to say. I do understand
3 the state tribes, you know, it's unfortunate
4 - you know, I had no problem with them being
5 in here. But I know sometimes it causes a
6 lot of tension and you can't speak freely.
7 So I understand both ways. For those of us
8 that would like to stay for the evening,
9 we'll stay for the evening session. Thank
10 you.

11 BY LARRY ROBERTS:

12 Thank you. And just to make clear,
13 the discussion draft doesn't change the
14 process for input from tribes or the
15 public. So if it's a proposed negative
16 or proposed positive finding, there's
17 still that opportunity for public input
18 before it goes final. So there are no
19 changes with regard to that.

20 BY CEDRIC SUNRAY:

21 When I look through here, like with the boarding
22 school tribes that aren't recognized, we've
23 got a full unanimous resolution passed by the
24 National Congress of American Indians passed
25 in 2011 supporting it. Tunica Biloxi is

1 supporting our tribe, and NAACP. National
2 Congress of American Indians supporting our
3 Federal recognition. Poarch Band of Creek
4 Indians supporting our Federal recognition.
5 And when they got recognized, they started
6 calling us mulattos. Another one from 2006
7 saying they will support us if the regs
8 change. A fullblood tribal council member
9 from the Mississippi Band of Choctaw Indians
10 is supporting our Federal recognition.
11 Listen to me for a second. Census records
12 listing every one of our tribal members as
13 Indian, all of our military records listing
14 all of our tribal members as Indians. Kevin
15 Gover saying he made a mistake, that he was
16 fooled by Lee Fleming. He said that in
17 congressional testimony in 2004, that he
18 denied our tribe after he was only on the job
19 for two days. Lee Fleming purposely waited
20 for the new assistant secretary to come in,
21 and asked him to sign off on a negative
22 determination. I have a letter here from Lee
23 Fleming showing his hostility for state
24 recognized tribes as well as calling some
25 blacks. Now, the reason I am saying all

1 this, why is some little governmental arm
2 that's a low level group, the Office of
3 Federal Acknowledgment, which changing its
4 name didn't turn it into a new process. Why
5 is it that national Indian organizations,
6 Federally recognized tribes that support us,
7 Vine Deloria, Jr., the most prolific Indian
8 author in the history of Indian country
9 writes the forward to our history book
10 demanding our Federal recognition. Why does
11 OFA have that weight above all of these
12 Federal Indian entities who supported us?
13 That's my question.

14 BY LARRY ROBERTS:

15 They're the institutional body,
16 right?

17 BY CEDRIC SUNRAY:

18 If you're seeking Federal input, there's input.

19 BY LARRY ROBERTS:

20 I hear your comment. Your comment
21 is should there be a process in place in
22 terms of support from - what weight
23 shall we give support from other
24 Federally recognized tribes and tribal
25 organizations.

1 BY CEDRIC SUNRAY:

2 Lee Fleming said that our language tapes recording
3 our speakers and - our language tapes and our
4 boarding school records were received out of
5 time, therefore couldn't be considered. As
6 if there's an out of time. How convenient.
7 How politically convenient for him to say
8 that our Federal boarding school records, our
9 Federal school as listed in the Library of
10 Congress, was built in 1835 and we still are
11 in it. It's the only Indian school in the
12 state of Alabama. Built by the bureau. And
13 he said that was received out of time, too.
14 So if you guys keep him on in this new
15 revised process, everyone already knows the
16 result. There's no tribe that is as clearly
17 shown through Federal Indian support,
18 national Federal organization support that we
19 are clearly a tribe. We even live on a state
20 recognized historic reservation. What more
21 do we need to do to get relief?

22 BY LARRY ROBERTS:

23 So in terms of the process and how
24 we have developed a discussion draft,
25 the Office of Federal Acknowledgment has

1 been involved in that discussion draft.
2 And then the other point to be made is
3 that the discussion draft does suggest a
4 process where after the proposed finding
5 is issued, there is question for tribes
6 and the public here, should that process
7 then transition over to the Office of
8 Hearings and Appeals. Which is separate
9 from IBIA. IBIA is one component in the
10 Office of Hearings and Appeals. But
11 there's actually a component within the
12 Office of Hearings and Appeals which is
13 staffed by administrative law judges
14 that are within the Department of
15 Interior. They may not have background
16 on Indian issues and Indian history and
17 policy and legal issues, but they are
18 administrative law judges that are
19 appointed there. And should that entity
20 issue a final determination based on
21 materials that would be provided to it
22 from petitioners and interested parties.
23 It would essentially be an
24 administrative judicial proceeding.
25 That's a question we need comment on.

1 So is there anyone else that has
2 comments today, this morning?

3 BY CEDRIC SUNRAY:

4 You need to take these four guys sitting right
5 here and they should make the decision on my
6 tribe. Y'all won't have to hire nobody else.
7 They've got it figured out.

8 BY LARRY ROBERTS:

9 We're not here on any specific
10 tribe. It's the regulations, itself.
11 Any else? The reason I'm asking is does
12 anyone object to ending this now so that
13 we can attend the funeral for Chairman
14 Earl Barbry. If anyone objects or has
15 final comments, please let me know.

16 BY WILSON PIPESTEM:

17 Let me say one thing. I think it's a priority to
18 pay respects to Chairman Barbry, but at the
19 same time the Eastern Band of Cherokee
20 Indians has come here for a government to
21 government consultation. And it's difficult
22 to have that sort of conversation and that
23 dialogue that we are promised by this
24 presidential memorandum on consultation when
25 this sort of conduct is going on. So I would

1 ask you again, we are trying to have a
2 review, we've got other things to say.
3 Understanding, though, that you've got an
4 unusual situation where the chairman is lying
5 here and has passed on. But we would like to
6 have government to government consultation
7 that's meaningful. And it's difficult to
8 have that in this kind of environment.

9 BY CEDRIC SUNRAY:
10 When you're being held accountable it is
11 difficult. You're right.

12 BY LARRY ROBERTS:
13 We're not going to have people
14 interrupting folks. So please.

15 BY CEDRIC SUNRAY:
16 I won't say anything else.

17 BY LARRY ROBERTS:
18 So don't interrupt. I am happy to
19 keep this consultation open as long as
20 you guys want to stay and talk. We are
21 happy to stay here. We scheduled it
22 until noon, and I am going to be here
23 for that entire time.

24 BY PERRY SHELL:
25 Perry Shell, Eastern Band of Cherokee. I don't

1 think this dialogue has been very effective
2 this morning. This probably would have
3 happened had we kept all of the groups in
4 here, you know, even worse than it is now.
5 But there are other things that we wanted to
6 touch on, and we'd like to have that
7 opportunity. It's difficult to get away,
8 come down here to do this. But at some point
9 we would like to have just a meeting with
10 you.

11 BY LARRY ROBERTS:

12 Okay. We're happy to have a
13 meeting if the Eastern Band is - I mean,
14 we're not going to do separate
15 consultations for every recognized
16 tribe. That's not really consultation.
17 But we are always happy to meet with
18 tribal leadership on any issue.

19 BY PERRY SHELL:

20 I think the circumstance of this meeting...

21 BY LARRY ROBERTS:

22 Yes, and the circumstance of this
23 meeting...

24 BY PERRY SHELL:

25 I think needs consideration.

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BY LARRY ROBERTS:

Yes. Like I said earlier,
obviously this meeting had been set up
way in advance of the chairman's
passing. We did reach out to his family
and ask whether they wanted us to move
the meeting. And they actually asked us
to move forward with the meeting out of
respect for him. But I understand the
Eastern Band of Cherokee, they are
requesting a meeting, and we are happy
to meet with them.

BY AUDREY GARDNER:

Audrey Gardner, Shawnee. I guess I'm just a
little bit curious, kind of piggy-backing on
that. Why wasn't a meeting held in Oklahoma
where there is a large population of
Federally recognized tribes? I mean, I would
agree it's difficult to get time away from
your schedule and travel. You know, one of
the reasons I am here instead of Chief is
because of that. She doesn't have the time
to take two days of travel to come down here
with such a busy schedule. I guess I would
be curious as to why a state with so many

1 Federally recognized tribes wasn't considered
2 as a location for this consultation.

3 BY LARRY ROBERTS:

4 We had a lot of comments in terms
5 of, you know, why haven't you been to
6 our state or different locations. The
7 fact of the matter is that we are having
8 five tribal consultations and public
9 meetings. That's more than typically
10 do. This is a discussion draft. It's
11 not a proposal we're making. So, for
12 example, on the tribal leasing regs,
13 which impacted all tribes across the
14 country, I think we had three tribal
15 consultations throughout the country.
16 So as we move forward with the proposed
17 rule where there will be additional
18 opportunities for comment, and tribal
19 consultation will be looking at going to
20 areas and regions where perhaps we
21 didn't visit this time around. The
22 other thing I would add is just that
23 sequestration has hit the Department
24 pretty hard. We have a Hundred Twenty-
25 Six Million Dollar budget. It's hit the

1 Department, it's hit tribes hard.
2 Tribes have been feeling it on the
3 ground in terms of those budget cuts.
4 So while we have done more here than we
5 normally do, it's also difficult to hit
6 every state. Are there any other
7 comments this morning? Any objection to
8 ending this at 10:30? That's okay?
9 Okay. If that's okay we will go off the
10 record and we will be back at 1:00.
11 (MORNING SESSION CONCLUDED AT 10:30 A.M.)
12 (AFTERNOON SESSION BEGINS AT 1:10 P.M.)
13 BY LARRY ROBERTS:
14 I would like start the public
15 meeting today with just a moment of
16 silence for Chairman Earl Barbry, who
17 was a longstanding leader for the Tunica
18 Biloxi tribe. We will take a moment of
19 silence to pay our respects to him.
20 Okay. So as we return for this
21 afternoon, a couple of just basic
22 housekeeping issues. One is whenever
23 you have a question or comment, please
24 state your first and last name and who
25 you are with for our court reporter so

1 that she can get that down and make sure
2 that your comments are preserved for the
3 record. The records of all of our
4 tribal consultations and public meetings
5 will be on our website, as well as it's
6 our attempt to have all of our written
7 comments that we receive be posted on
8 our website as well so that people can
9 see what comments were made at all of
10 the various tribal consultations and
11 public meetings, and then written
12 comments that the department has
13 received.

14 In your packet of materials that
15 you have received today there is a red
16 line, that is the discussion draft that
17 we will be talking about. That is a red
18 line against the existing regulations.
19 As we're going through this process to
20 issue a proposed rule, what we'll be
21 doing is putting the regulations in
22 plain language. That's one of the
23 requirements that we have at the
24 Department in terms of whenever we amend
25 or promulgate a rule, that we put it in

1 a format that is easier to read.

2 There is coffee and water on the

3 other side on the table there. And the

4 other thing that I would ask is that if

5 someone is talking with a comment, that

6 whoever has the microphone, that you

7 allow them to finish whatever they are

8 saying so that everybody has an

9 opportunity to provide comments. At

10 earlier consultations and public

11 meetings we've had situations where

12 everyone in the room essentially wanted

13 to comment. That's great; that's what

14 we're looking for. If we get into a

15 situation where everybody wants to

16 comment and their comments are running,

17 say, longer than five (5) minutes, what

18 we would ask is that you take - you take

19 five (5) minutes. If you have a line of

20 folks behind you, have them be able to

21 give their comments, and then we would

22 be more than happy, you are more than

23 free to speak again and provide

24 additional comments. But I want to make

25 sure that everybody has an opportunity

1 to share their comments with everyone in
2 the room.

3 So does anyone have any concerns
4 with those sort of basic ground rules,
5 rules of the road? Okay. Great. So
6 thank you for coming this afternoon. We
7 are going to get through a presentation
8 that is going to take about twenty
9 minutes, and then we are going to open
10 it up for comments and questions. It's
11 just a general overview of the
12 discussion draft.

13 So very briefly, though, there are
14 essentially three ways that a tribe can
15 become Federally recognized. It can be
16 through congress, by legislation. It
17 can be through a court order, and it can
18 be through the Department of Interior.
19 And what we are here to talk about today
20 is the Part 83 Process for Federal
21 acknowledgment. So prior to 1978 we had
22 the Department of Interior address
23 petitions for acknowledgment on a case
24 by case basis. So we addressed those on
25 a case by case basis. And then in 1978,

1 as most of you know in the room, the
2 Department promulgated regulations. In
3 1994 the Department revised those
4 regulations, in large part adding a
5 section to address petitioners who
6 argued that they had previous or
7 ambiguous Federal acknowledgment. In
8 2002, 2005 and 2008, the Department
9 issued guidance to the public, to
10 petitioners and to the Office of Federal
11 acknowledgment staff on how to basically
12 work under those existing regulations.
13 Of the five hundred and sixty-six (566)
14 Federally recognized tribes today,
15 seventeen (17) have gone through the
16 Federal acknowledgment process. And as
17 many of you know in the room, Tunica
18 Biloxi was the first petitioner. They
19 were petitioner number one.

20 So some of the criticisms that the
21 Department has heard is there have been
22 a number of comments that the process is
23 broken: That it takes too long, that its
24 burdensome, that it's expensive, that
25 it's not transparent, that it's

1 unpredictable in its results and that
2 the criteria is too subjective. And so
3 in response to those comments we've
4 started working to look at the Part 83
5 process. And our efforts started in
6 2009 with Secretary Salazar. Secretary
7 Salazar, who was the Secretary of the
8 Interior at the time, testified before
9 the Senate Committee on Indian Affairs
10 that he would examine ways to improve
11 the process.

12 And later that year, in November of
13 2009, the Department again testified to
14 the Senate Committee of Indian Affairs,
15 and at that testimony the Department
16 said that they would look at eliminating
17 unnneeded steps, that they would take a
18 hard look at the standards. And in
19 2009, the Department testified that it
20 would take approximately a year to issue
21 a proposed rule and approximately
22 another year to issue a final rule. In
23 2010, the Department internally started
24 working on potential revisions to the
25 Part 83 Process.

1 Then in 2012, the Department again
2 testified before the Senate Committee of
3 Indian Affairs in response to questions
4 from the Senate Committee in terms of
5 why the Department yet issued a proposed
6 rule. The Department testified that
7 they were identifying a handful of goals
8 in their revisions and that they were
9 still working through what those
10 revisions might look like. And so some
11 of the goals that they testified to,
12 that the Department testified to was
13 transparency, timeliness, efficiency,
14 flexibility and maintaining the
15 integrity of the process.

16 Earlier this year the assistant
17 secretary and myself testified before
18 the House Natural Resources Committee, a
19 subcommittee that works directly on
20 tribal issues. In that testimony we
21 laid out a certain path that we're on
22 now, that we would issue a discussion
23 draft, that we would hold tribal
24 consultations and public meetings, that
25 we hoped to issue a discussion draft

1 this summer - by this summer, and that
2 we would go forward with our normal rule
3 making process after that.

4 So this is - what the Department is
5 doing here with the discussion draft,
6 typically, for those of you that don't
7 follow the regulatory process in terms
8 of how the Department has changed their
9 rules, typically the agency just issues
10 of proposed rule and asks for comment.
11 On this one, what we've done is we've
12 taken an early additional step to get
13 maximum involvement from the public in
14 terms of comments on how to improve the
15 process.

16 So that's why we're starting with
17 the discussion draft. And then we'll
18 start our normal rule making process
19 after we've received comments on the
20 discussion draft.

21 So I'm not going to read all of
22 these changes in the discussion draft.
23 We're going to go through and talk about
24 them in more detail, each one, and you
25 are following slides, but this sort of

1 identifies some of the primary changes
2 in the discussion draft.

3 So the first change is to eliminate
4 the letter of intent. Right now, as
5 most of you may be aware, the
6 regulations provide for a petitioner to
7 submit a letter of intent, and then it
8 may take some time, it's really up to
9 the petitioner, in terms of when they
10 actually submit a petition.

11 And so this process, what it would
12 do essentially is just eliminate the
13 letter of intent and start the process
14 with when a petition is filed.

15 We added a process criteria for
16 expedited negative findings. What we are
17 looking for comment on on these changes,
18 this criteria, whether we've got it
19 right or whether there is other criteria
20 we should be looking at for expediting
21 negative rulings. And essentially how
22 it would word in the discussion draft is
23 a petitioner would submit a petition,
24 the Department would review the petition
25 for criteria (e), descent from

1 historical Indian tribe, (f), that its
2 membership is not primarily composed of
3 a Federally recognized tribe, and (g),
4 that Congress has to pass legislation
5 that forbids a government to government
6 relationship. So if Congress has
7 terminated a tribe or has basically
8 forbidden the Department from
9 acknowledging a tribe, we obviously
10 cannot process that petition. That
11 would take an act of Congress to change.
12 And so if a petitioner did not satisfy
13 all three of these criteria, then we
14 would issue an expedited negative
15 finding with the six (6) months of
16 active consideration. If the petitioner
17 met all three of those criteria at the
18 onset, then we would go to the next
19 stage to see whether the petitioner is
20 asserting a basis for an expedited
21 favorable finding or processing under
22 the remaining criteria.

23 So we've added provisions in terms
24 of expedited favorable finding, again,
25 we're seeking comment and input on

1 whether these criteria are appropriate
2 or whether we should be looking at other
3 criteria. But that expedited favorable
4 finding would be for those petitioners
5 that can satisfy that they've maintained
6 a reservation recognized by the state
7 since 1934 to the present or if the
8 United States has held land for the
9 group at any point in time since 1934.

10 If a petitioner satisfies either of
11 those two criteria, then it would - the
12 Department would issue a proposed
13 favorable finding, in which case we
14 would then receive notice and comment
15 from - or we would receive comment from
16 the public essentially. If a petitioner
17 failed one of those two expedited
18 favorable criteria, then they would be
19 processed under the remaining criteria.

20 In terms of the remaining criteria,
21 the discussion draft proposes
22 elimination of criteria (a), which is
23 external identification of the group as
24 Indian from 1900 to the present. That
25 is primarily for the purpose that if a

1 petitioner satisfies all the other
2 criteria for a tribe, to constitute a
3 tribe that should be Federally
4 acknowledged, it shouldn't matter
5 whether an external observer chronicled
6 the existence of that tribe from 1900 to
7 the present.

8 In terms of criteria (b) and ©,
9 community and political authority, the
10 discussion draft proposes to start that
11 review at 1934 to the present. And the
12 reason that the discussion draft has
13 1934 is because that's a date in our
14 nation's history where Federal policy
15 shifted from one of allotment and
16 assimilation to tribal self-
17 determination with the passage of the
18 Americanization Act. That would
19 preclude petitioners or others from
20 submitting evidence prior to 1934, but
21 we would start our review in 1934 and
22 take into account any information
23 submitted prior to that date that may be
24 relevant to the criteria after 1934.

25 In terms of criteria ©, the only

1 change in the discussion draft is to
2 provide - right now as the process
3 currently stands we rely currently on
4 genealogy information to prove criteria
5 (e). This would allow historians' and
6 anthropologists' conclusions to be
7 submitted as evidence of descent from an
8 historical Indian tribe.

9 And then you'll see throughout the
10 discussion draft we have placeholders
11 for input in terms of what numbers we
12 should have for the criteria. And we're
13 looking for suggestions in terms of
14 other objective criteria that we could
15 use to improve the process.

16 The discussion draft has provisions
17 in it that would allow a petitioner to
18 withdraw a petition at any time before a
19 proposed finding is published. We have
20 heard some comments that sometimes
21 petitioners may want to withdraw their
22 petition for whatever reason and they're
23 sometimes not allowed to do so. The
24 discussion draft would allow them to do
25 that as long as they have - as long as a

1 proposed findings hasn't been published
2 yet. And essentially OFA would then
3 cease consideration and the petition
4 would be resubmitted. If a petition
5 were resubmitted, it would essentially
6 lose its place in line and be considered
7 - it wouldn't regain its initial
8 priority number.

9 So we also have a provision for
10 automatic final determinations if the
11 Department is essentially embodies
12 existing practice by the Department.
13 That is if a proposed finding is issued
14 and it's favorable, and the department
15 doesn't receive any arguments or
16 evidence in opposition to
17 acknowledgment, then that would go -
18 essentially be finalized as a favorable
19 finding. What we have added here is if
20 we don't receive any arguments or
21 opposition from either the other
22 Federally recognized tribe in the state
23 or from the state or local governments
24 where petitioner is located. If we
25 didn't receive evidence or arguments in

1 opposition, then it would just go to
2 automatically be final.

3 One area that we're seeking input
4 on is who should make a final
5 determination for Federal
6 acknowledgment. As the process
7 currently stands, the assistant
8 secretary makes that final
9 determination. The discussion draft
10 leaves placeholders for input after a
11 proposed finding is issued whether the
12 process should then shift to the Office
13 of Hearings and Appeals, which is an
14 office within the Department that is
15 essentially independent from the rest of
16 the Department. It's staffed by
17 administrative law judges. And the
18 discussion draft asks whether after a
19 proposed finding is issued, should the
20 process then move over to an
21 administrative law judge, who would then
22 receive comments from the public, set a
23 briefing schedule, and then based on all
24 the evidence before that administrative
25 law judge, make a final determination.

1 In terms of a review by the
2 Interior lawyer to eliminate that
3 review, right now Federal acknowledgment
4 decisions are the only decisions that
5 are made by the assistant secretary that
6 are subject to administrative review.
7 And so we delete that administrative
8 review. The assistant secretary's
9 decision would be final for purposes of
10 the Department and any challenges to
11 that final decision would go to Federal
12 court.

13 While we're very early on in the
14 process, we thought we should address
15 for those petitioners that are already
16 in the process and maybe under active
17 consideration how would their petitions
18 be handled if we issue an amended rule.

19 And the discussion draft addresses
20 it by basically saying for those
21 petitioners that haven't received an
22 active consideration, that they would
23 fall under the new rules where if those
24 would be in a final rule maybe. And
25 anyone who is under active consideration

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would have a choice as to whether to stay under the existing rules or be processed under the new rules.

And so that's something that we're looking for comment on in terms of how should the new rules apply to petitioners as we're going through this rule making process, knowing that it's going to be some time before the final rule is in place.

Finally, the discussion drafts as for an opportunity for a petitioner who has been denied Federal acknowledgment under the previous regulations to repetition if they can prove by a preponderance of the evidence, either through the assistant secretary or the Office of Hearings and Appeals that the changes from the previous version to the new version warrants reversal of the final determination.

So we are seeking comments on all aspects of the rule. There may be ideas or suggestions that you have that are not incorporated in the discussion draft

1 that are not in the existing rules that
2 we would welcome that input and comment.
3 Specifically, any changes to the
4 definitions. When we've talked about
5 should the Department put out a standard
6 form for petitioners, not requiring
7 petitions to utilize that form, because
8 we know every tribe's history is unique
9 and petitioners may need flexibility in
10 their petitions to show that. But it
11 could be optional, at least stating some
12 sort of guidance to petitioners in terms
13 of what the Department is looking for in
14 a petition.

15 In terms of the various criteria,
16 and I'm going to flip through these
17 relatively quickly, but what objective
18 criteria should we be using, and are
19 there additional objective criteria that
20 we haven't considered that we should
21 consider.

22 Same thing with political influence
23 and authority and the (inaudible) for a
24 tribe.

25 One of the things that we're asking

1 and seeking comment on is should there
2 be page limits applied to the process
3 and should there be page limits, for
4 example, applied to the petition. I'm
5 not talking about the source of
6 historical documents that a petitioner
7 would rely upon. I'm talking about the
8 narrative petition that a petitioner may
9 submit in terms of summarizing that
10 instead of preparing. Should the
11 proposed finding have page limits. I
12 think our proposed findings have gone
13 over time from less than a hundred (100)
14 pages to maybe hundreds of pages. And
15 could we - would it be an improvement to
16 the process, would it be more readable
17 for the public, for petitioners and
18 everyone involved if we impose page
19 limits on ourselves as part of a
20 proposed finding. And then in terms of
21 comments, should we impose page limits.

22 Comments are due August 16th, and
23 you can e-mail them to the e-mail or
24 site in your materials. You can mail
25 them to Liz Appel. August 16th won't be

1 your only opportunity to provide
2 comments as we go through this process.
3 As I mentioned, once we receive all the
4 comments and look at those we will move
5 forward and issue a proposed rule. And
6 once we issue a proposed rule, the
7 public will have another opportunity to
8 make comments on that proposed rule.

9 The proposed rule will be based on
10 the comments that we receive, and our
11 internal incorporations in proposed rule
12 may not look like the discussion draft,
13 but we want to have early input and
14 early comments. But once the proposed
15 rule is put out there for public
16 comment, we will probably have a period
17 of somewhere between thirty (30) to
18 sixty (60) to ninety (90) days for
19 further comment. And then we'll move
20 forward with a final ruling.

21 So with that, I am going to open it
22 up to questions and comments. And I
23 think it would be helpful if, if you
24 can, if you could please come up to this
25 microphone, I think that would be

1 helpful in terms of allowing everyone to
2 hear. For whatever reason, if you can't
3 make it to this microphone, just raise
4 your hand and we'll bring a microphone
5 around to you so that we can have your
6 comments. Thank you.

7
8 BY THOMAS DARDO:

9 My name is Thomas Dardo, Principal Chief of United
10 Houma Nation. I would like to thank
11 everybody for coming down and giving us this
12 period to comment. I have three points. I
13 support and agree with the changes in time
14 line for criteria (b) and ©, and ask that
15 OFA set the same time line for criteria (e).
16 The requirements for historical time is
17 overly burdensome and makes no allowance for
18 the oral tradition of our people. Secondly,
19 the second concern of our tribe is that
20 ensuring that qualifying staff are assigned
21 in appropriate cases where they are
22 knowledgeable in the preparation of
23 historical, region and tribal relations.
24 This would lead to consideration in decision
25 making relative to applicants. For instance,

1 in our petition John Swine (spelled
2 phonetically) was discredited for his work in
3 our tribe, and yet in a prior petitioner he
4 was revered for his work. Finally, the final
5 thing is we ask for clarification regarding
6 our tribe's choices of following the new
7 proposed regulation. Will we be required to
8 start from the beginning? Recommendations
9 that the tribes that have been in the process
10 for the longest period of time be considered
11 first.

12 BY LARRY ROBERTS:

13 Thank you.

14
15 BY CEDRIC SUNRAY:

16 Cedric Sunray, Mowa Band of Choctaw Indians. I
17 set out packets here. Various people have
18 them. I want to give you my background real
19 quick. My background is useless outside of
20 this room. It's not anything to brag about,
21 but in this room it's something that will
22 tell you it's part of my involvement. I am
23 an enrolled member of the historic
24 (inaudible) tribe, as well as a Federally
25 recognized tribe. bachelor and master's

1 degree in Indigenous Nations/American Indian
2 studies. I taught American Indian studies in
3 six colleges and universities, and I'm
4 currently a student at the University of
5 Oklahoma's College of law. So my involvement
6 - I've reviewed every single petition denial
7 from the beginning to the end. I've wrote
8 extensively and I have seventy-five (75)
9 published articles on the issue of Federal
10 Recognition in both academic journals, as
11 well as national magazines and newspapers. I
12 have also written two book drafts as well
13 regarding the subject. So that's my
14 background. But like I said, once I leave
15 this room, who cares. So the first one is
16 living language communities should be
17 immediately considered or reconsidered for
18 recognition. Any current non Federally
19 recognized tribe who has retained tribal
20 language to the present. Not revitalized it,
21 but has maintained it consistently throughout
22 their tribe's history should be reconsidered
23 immediately. That's the MOWA Choctaws,
24 that's the Euchee of Oklahoma, that's the
25 Houmas, and related communities in Louisiana

1 who has had a mixed language of French and
2 Muskogee/Choctaw language that has been
3 documented by a PhD linguist to show that
4 that is a viable continuous indigenous
5 language form. Second, would be those tribes
6 who attended the Federal and closely related
7 mission and Indian boarding schools. In the
8 back of the room you will see many documents
9 regarding photos, direct correspondence with
10 the Department of the Interior, direct
11 communication with Indian Affairs of twenty-
12 two (22) tribes nationally who attended the
13 Federal Indian boarding schools through the
14 generations. I, myself, attended Haskell
15 Indian Nations University in Lawrence,
16 Kansas. My family members attended Choctaw
17 Central High School on the Mississippi
18 Choctaw reservation. Which, interestingly,
19 in Congress, the former chief of the
20 Mississippi Choctaw said he never heard of
21 our people, yet his office was directly
22 across the street from the very boarding
23 school on his reservation that our families
24 attended, and our attendees were friends with
25 his children and stayed at his home. Third,

1 would be those tribes who continue to reside
2 on reservations officially designated by the
3 colonial state governments. So that's
4 already something that they're talking about
5 now. Those tribes should immediately be
6 reconsidered or have consideration. Four,
7 place those tribes who have high rates of
8 intermarriage with other Federal tribes. And
9 this is what I'm saying. It's not trying to
10 be a part of the colonial project and say if
11 you were married to federal tribes that you
12 are more Indian than anybody else. What it
13 is saying is in our tribe we have thirty
14 different federally recognized tribes from
15 across the country married into our
16 community. Our children, our grandchildren
17 and great grandchildren are enrolled members
18 of Federal tribes all across the nation.
19 There is no way that that many Federally
20 recognized tribes would have married into a
21 non Indian community in rural Alabama with no
22 job opportunities or anything of that nature.
23 It's a social impossibility. So it speaks to
24 itself very clearly. Fifth, in line may be
25 those tribes who were disallowed attendance

1 at area white and black schools. And set up
2 Indian schools in their local communities.
3 Our school was set up by the Bureau Indian
4 Affairs, which had a different name at that
5 time back in those days. And our school was
6 continually inhabited, and it continually
7 today is now run by the State of Alabama, the
8 very same school. And it's in the Library of
9 Congress. Every record attests to that.
10 Sixth, may take into account the tribes with
11 Indian designations on census, military and
12 education records. When I look at our title,
13 our military records, our census records,
14 except for a couple censuses, and insofar as
15 educational records we're listed as Indians
16 from the very beginning to the end. But Lee
17 Fleming shows two census time periods where
18 we were listed as mulattos and black and
19 white. Okay? And that's the ones that he
20 put forth. Nothing of our language, or
21 anything else that was submitted, he sent all
22 those clear identifiers and said that they
23 were received out of time. How convenient to
24 say something like that when they were
25 submitted with the initial petition.

1 Seventh, I will say that tribes who have
2 retained separate languages and cultural
3 spaces from Federal tribes who have
4 politically consumed them, should be afforded
5 an opportunity to remove themselves from
6 their legal grip. The Shawnees, there's a
7 Shawnee in here, they are separating
8 themselves from the Cherokee Nation of
9 Oklahoma, as did the Delaware Nation, the
10 Euchee tribe attempted to do that for many
11 years in Oklahoma; they have a separate
12 language, separate ceremonial grounds,
13 separate historic Indian churches. But, like
14 us, millions of dollars and congressional
15 time has been spent against in order to
16 prevent them to proceed and be a possible
17 future gaming competitor. Our tribe had
18 Fifteen Million Dollars (\$15,000,000) spent
19 against it, and Jack Abramoff, the lobbyist
20 involved in it, went to jail for six years
21 because of his direct involvement. Finally,
22 these tribes who demonstrate all these
23 issues, those who have already been denied
24 and demonstrated, many of these here, should
25 be immediately brought to the front for

1 reconsideration. Because what's going to end
2 up happening in this process is the twenty
3 (20) or thirty (30) years it's going to take.
4 The issue is not with the previous set of
5 criteria. The issue is how the set of
6 criteria was applied. Lee Fleming, you will
7 see in these packets, had open hostility
8 that, under affidavits people said from
9 various academics and professionals, that he
10 exhibited towards non- Federal tribes prior
11 to him joining the Bureau of Indian Affairs.
12 He's now the man who makes that decision for
13 everybody. Any registered lobbyist should be
14 completely removed from any involvement in
15 this process whatsoever. Registered
16 lobbyists should have no say. Anything in
17 writing, respond to or hired as hired guns of
18 multi-gaming Federal tribes should be removed
19 from the process completely. USET, who has
20 fought religiously against non-Federal
21 tribes, on the Pequot reservation in 2004,
22 passed a resolution saying that very same
23 thing. Will not support any tribe going
24 through the congressional route. They will
25 not support any. That's interesting because

1 over half their organization's tribes were
2 recognized by the US Congress and not by the
3 Office of Federal Acknowledgment. If that's
4 not the pot calling the kettle black,
5 throwing stones in glass houses, then I've
6 never seen one that clear and that obvious.
7 My final statement. The Assistant Secretary
8 of Indian Affairs, when our petition was
9 denied, was Kevin Gover. He's a member of
10 the Pawnee Nation of Oklahoma. Mr. Gover,
11 Lee Fleming waited until he was only two days
12 on the job and asked him to deny our tribal
13 petition, because the previous assistant
14 secretary would not deny it. So he waited
15 until the new assistant secretary was on the
16 job for two days and got him to deny it. In
17 2004, Kevin Gover got up in front of the US
18 Congress, and you will see the US
19 Congressional testimony in the packet, and,
20 in essence, apologized for making a mistake
21 with our tribe. He apologized to me
22 personally over the telephone. He said he
23 hadn't reviewed the petition, he had only
24 been there two days, and he took the word of
25 Lee Fleming in making the decision. And

1 that's all I have to say.

2 BY LARRY TOWNSEND:

3 Good afternoon. I am Larry Townsend, and I am
4 here today in my capacity as the Southeastern
5 area Vice President of the National Congress
6 of American Indians. I strongly support the
7 Bureau of Indian Affairs' efforts to revise
8 the Federal acknowledgment process Part 83.
9 There are numerous petitioning tribes who are
10 members of the NCAI and who have a vested
11 interest in this endeavor. The process for
12 Federal acknowledgment is broken. And there
13 is a dire need to amend the process. As one
14 great leader said, "Justice delayed is
15 justice denied." It is long past time for
16 our government to do the right thing for all
17 American Indian tribes. I commend the
18 Assistant Secretary Washburn and his staff
19 for eliminating the process with the current
20 Federal acknowledgment process. And I
21 commend the attempt to make the process more
22 transparent, timely, efficient and flexible.
23 The proposed changes will certainly enhance
24 and maintain the integrity of future
25 decisions for all of our people. I look

1 forward to the positive outcomes of these
2 efforts. Thank you.

3 BY MR. CALDWELL:

4 Hello, I'm Robert Caldwell. I am representing the
5 Choctaw/Apache Community of Ebarb. We are
6 petitioner #37. If you'll please, if someone
7 will let me know when I'm at four and a half
8 minutes, because we have a lot to say and I
9 don't want to take all of your time
10 immediately. The Choctaw/Apache Community
11 Ebarb welcomes the opportunity to discuss the
12 proposed changes to the Federal
13 acknowledgment Regulations today, to explain
14 our concerns and to ask questions. We offer
15 comments on the preliminary discussion draft
16 as well as problems we have seen with
17 interpretation of the regulations from 1978
18 to present. First, we agree with what other
19 people said in that support 83.6 (e-1), which
20 clarifies that evidence should be viewed in
21 the light most favorable to the petitioner.
22 We think that evidence must be always be in
23 the light most favorable to the petitioners.
24 But OFA policy suggests that there's a bright
25 line between groups who are tribes and

1 others. However, in reality, they are many
2 competing definitions of tribal existence.
3 Critics have suggested that the OFA uses the
4 most restrictive notions of tribal nation, a
5 practice that seems to be rooted in the fear
6 of criticism more than sound conclusions.
7 The cannon of interpretation of Federal
8 Indian law and tribal sovereignty demanded an
9 ambiguity to be resolved in the favor of
10 tribes. The correct standards of the OFA
11 action should be also to resolve ambiguities
12 in favor of petitioners. In that light we
13 appreciate the modified 83.6 (b-1) requiring
14 that applicants be viewed in the light most
15 favorable to the petitioner. Secondly, we
16 assert that OFA interpretations of tribes
17 which combine and function as a single
18 autonomous political entity have been overly
19 stringent. OFA has interpreted tribes which
20 combine and function as a single autonomous
21 political entity in ways that we believe has
22 let to illogical conclusion. The case of
23 United Houma Nation and related groups is
24 illustrative of this. In this finding
25 regarding the Houma, the OFA concluded that

1 the Houma family ancestors were a group of
2 accidental neighbors who happened to be
3 Indian rather than a group who chose to live
4 with each other because they could live as
5 Indians together. The fact that they and
6 their descendants stayed together and
7 maintained an Indian community identity is
8 certainly evidence of their intention to form
9 a political and cultural community with one
10 another. While most would prefer to have had
11 written constitution or a declaration of
12 independence to provide proof of their
13 political community, historical contingencies
14 meant that many communities did not.
15 Previous OFA interpretations have not
16 accepted documentation that a person or group
17 of people is Indian as evidence of descent
18 from historical tribe or tribes. How can a
19 group be Indian and not be descended from a
20 tribe? While it's true that Federal
21 Recognition is rooted in indigenous political
22 primacy, acknowledgment that Indian nations
23 governments predated United States. However,
24 Indian communities all over the United States
25 were comprised with individuals from a

1 variety of tribes. People from whom the idea
2 of tribe did not always have the same
3 significance. And if you want historical
4 documentation of this, James Merrill's work,
5 The Catawbas, Little Republics; Richard
6 White's work and Harmon's work are probably
7 all useful here. Third, we maintain that
8 tribal Federal Recognition is a Federal
9 obligation. It's not an entitlement program.
10 As former head of the PIA Michael Anderson
11 has said "Tribal recognition is a Federal
12 obligation, not an entitlement program."
13 Supreme Court's 1832 decision, Chief Justice
14 John Marshall wrote that tribal sovereignty
15 is not only acknowledged, but guaranteed by
16 the United States. Given this fiduciary
17 responsibility to guarantee tribal
18 sovereignty, the United States government is
19 obligated to actively investigate whether
20 some Indian nations sovereignty is currently
21 being violated by non-recognition.
22 Recognitions has been a currently
23 interpretive, passively way for tribes to
24 conduct the extensive research required to
25 petition for acknowledgment on their own.

1 Official OFA policies specifically ordered
2 its employees to do no research work to
3 assist petitioning nations. This might speed
4 up the notoriously slow rate in which
5 petitions are reviewed, but have the opposite
6 effect of what criticisms of their speed
7 intended. Rather than obtaining more
8 attention for each petitioners case from the
9 Federal government, this regulation results
10 in less attention.

11 BY LARRY ROBERTS:

12 Let me just stop you there just for
13 a second and ask these gentlemen waiting
14 whether - how much longer your comments
15 are?

16 BY MR. ROBERT CALDWELL:

17 I have a number, but I could finish this thought.

18 BY LARRY ROBERTS:

19 Sure.

20 BY MR. ROBERT CALDWELL:

21 Research support and advice should be an ongoing
22 obligation of the Federal government for
23 groups showing evidence of Indian ancestry up
24 until the moment of final decision. Ongoing
25 eligibility for such support could be tied to

1 various progress markers as grants typically
2 are in order to prevent abusive ways, while
3 not delivering much needed support to tribes.
4 We certainly have the need for ongoing
5 support. The process as it currently exists
6 is very costly, and we believe that we could
7 benefit from support.

8 BY LARRY ROBERTS:

9 Thank you.

10 BY FRAMON WEAVER:

11 My name is Framon Weaver. Good afternoon, ladies
12 and gentlemen. I am an elected tribal chief
13 of the MOWA Band of the Choctaw Indians of
14 South Alabama. On behalf of my people, thank
15 you for the opportunity to provide a few
16 comments on the Federal Recognition process
17 and the changes. It is widely accepted that
18 the Federal Recognition process is broken.
19 So I'm not here just to simply reiterate that
20 strong belief. But what I'd like to do is
21 remind everyone that you can't legislate
22 hearts and minds, nor can you regulate them.
23 That being said, the problems that we seek to
24 solve are not only found in these
25 regulations, but mostly in those who

1 administer them. As your job is to follow
2 the regulations that essentially provide a
3 fair, uniform and systematic approach to
4 evaluate the facts as presented; they do
5 little to ensure that the bureaucracy charged
6 with administering them would do so according
7 to strict protocol and limit bias, politics
8 and all other forms of outside influence.
9 They do nothing to ensure that the Department
10 will evaluate the facts as presented in an
11 independent and objective manner instead of
12 using the might and power and resources of
13 the Federal government at their disposal to
14 seek out evidence to support a prejudicial
15 notion. Make no mistake about it, the very
16 same individuals who purport to provide help
17 and resources to petitioners have the power
18 to actively and secretly work to derail their
19 efforts; which they do. Our experience was
20 one of both patronizing misdirection and
21 spin. Any evidence that they felt served to
22 support a denial was presented in esteem
23 regard while more solid and compelling
24 evidence that supported our petition was
25 either completely and totally disregarded or

1 was marginalized. They knew full well and in
2 advance what the decision would be, as they
3 did not evaluate the mound of evidence we
4 spent years gathering. The expedited rules
5 process should be more seriously evaluated as
6 it has allowed OFA to take the path of least
7 resistance in its evaluation of documented
8 petitions by granting them the authority to
9 pick the area that a tribe's petition is most
10 vulnerable to denial, while not even having
11 to evaluate other areas where strong
12 supporting evidence may be found. We were
13 naive to believe we would receive a fair
14 evaluation. Instead, the BIA completely
15 disregarded any and all evidence that could
16 serve to support our claim while actively and
17 aggressively working to find any evidence
18 they could find to support a denial. Please
19 allow me to share with you the thoughts of a
20 few renowned experts after we were denied
21 under the existing process. Renowned legal
22 scholar and member of the Standing Rock
23 Sioux, Professor Vine Deloria wrote "The
24 Federal acknowledgment process today is
25 confused, unfair, and riddled with

1 inconsistencies. Much of the confusion is
2 due to the insistence that Indian communities
3 meet strange criteria which, if applied to
4 all Indian nations when they sought to
5 confirm a Federal relationship, would have
6 disqualified the vast majority of presently
7 recognized groups." He further wrote, "The
8 MOWA Choctaws have a typical profile for
9 Southeastern Indians. Their traditions are
10 solid and the historical data that identifies
11 them as Indians extends to the days when they
12 were integral villages in the Choctaw Nation.
13 Few people realize that not all people
14 removed when the army marched the Nation
15 to the West. Indeed, the fragmentation of
16 the Five Civilized Tribes before, during and
17 after removal makes their history a
18 fascinating store of persistence and
19 survival, but certainly does not eliminate
20 them from the groups of people that should
21 rightfully be recognized as Indians." Dr.
22 Richard W. Stoffle, PhD, Department of
23 Anthropology, University of Arizona wrote in
24 response to the BIA decision to deny
25 recognition, "I can only express my deepest

1 disappointment in the BIA's decision. As
2 someone who has reviewed your petition at
3 length and has talked with your elders, there
4 is no just argument against recognizing your
5 status as an American Indian Tribe. After
6 working for twenty-seven (27) years with more
7 than eighty (80) American Indian tribes, it
8 is my considered opinion that the MOWA
9 Choctaw people are a persistent tribal
10 society. It is difficult for me to
11 understand how that point could have been
12 missed by the BIA." Dr. Kenneth York, PhD,
13 member of Mississippi Band of Choctaw
14 Indians, after critical review of our
15 evidence writes, "It is my belief as a member
16 of the Mississippi Band of Choctaw Indians
17 that members of the MOWA Band are descendants
18 of the Great Choctaw Nation which was
19 disbanded by the U.S. Government during the
20 Indian Removal Period. It is my professional
21 opinion that the MOWA Band has provided
22 documentation regarding the history, culture,
23 and ancestral relationship as well, if not
24 better, as any tribal petition in recent
25 years." Dr. Loretta Cormier, PhD at the

1 University of Alabama at Birmingham wrote,
2 "As you are well aware, I have had the
3 opportunity to work among the MOWA Choctaw
4 over the course of the last three years and
5 have researched your cultural history. Let
6 me say unequivocally that I have no doubt
7 that the MOWA Choctaw are an American Indian
8 community. I am astounded by the BIA's
9 denial of your Federal Recognition and find
10 the technical report they prepared to be
11 seriously flawed in terms of its historical,
12 cultural, and even logical analysis of MOWA
13 Choctaw history." Dr. Gregory A. Waselkov,
14 PhD and professor at the University of South
15 Alabama wrote to say, "I am more than willing
16 to testify before the United States Congress
17 on behalf of the MOWA Choctaw people in your
18 quest for Federal tribal recognition. After
19 years of historical and archaeological
20 research on the prehistory and history of
21 south Alabama, I am convinced that the MOWA
22 Choctaw deserve Federal recognition as an
23 American Indian tribe." Even former
24 Assistant Secretary Kevin Gover testified
25 before the U.S. Senate on these very same

1 problems when he explained, after acting on
2 our petition and several others, that he was
3 taken advantage of by his own staff and, as a
4 result, remained disturbed by his decision to
5 deny our tribe and several others. For this
6 reason, we praise the committee for allowing
7 the possibility for reconsideration under
8 these new proposed regulations. At least for
9 us, the underlying credibility and integrity
10 of the process, not so much the criteria
11 themselves, is at issue. Since most
12 petitioners can't afford the likes of
13 Abramoff or Scanlin, please do more to ensure
14 that petitions are evaluated with
15 independence and objectivity free of any
16 undue influence. Thank you.

17 BY LARRY ROBERTS:

18 Thank you. I notice that you were
19 reading. If you want to share that with
20 us or give it to us, we'll make sure
21 that the transcriptionist has that to
22 make sure that everything is accurate.

23 Thank you.

24 BY EARL SYLVAIN:

25 My name is Earl Sylvain. I am an elder with the

1 Avoyel-Taensa tribe. My information is not
2 as long as theirs. But I do have a question.
3 As I stated in this room this morning, we are
4 a recognized tribe. I have the paperwork
5 that's stated we were recognized on December
6 the 4th of 1980 along with the Tunica, the
7 (inaudible-Ofier) and the Avoyel tribe was
8 recognized in 1980. But yet and still, we
9 have been denied the privilege of being or
10 receiving the benefits that we were supposed
11 to get under those recognitions, those
12 Federal recognitions. As a member of the
13 tribe, I was told by the person that we
14 memorialized this morning, "I know who you
15 are, but the roles are closed and we're not
16 going to let you in." My point is this, how
17 can you be a recognized tribe, you use
18 thirty-seven (37) chiefs names to get your
19 recognition. And that's what the Tunica
20 Biloxi did. They used thirty-seven (37)
21 chiefs names of the four tribe - the last
22 known four chiefs prior to 1976, when the
23 last ones died, were Joseph Sylvain, who was
24 my great grandfather; Ursin Thomas, Ursin
25 D'Augustine; and Chief Valentine. The last

1 known chief of my age was my uncle, Grover
2 Sylvain. And he was recognized as Chief
3 Sylvain of the Sylvain tribe. Now, saying
4 all of this, my questions are these. Avoyels
5 tribe was recognized with several other
6 tribes, why is it that this tribe has to
7 reapply for Federal recognition. If we've
8 already been recognized, why do we have to
9 reapply. Second, why is it that the Avoyels
10 tribe is unable to receive Federal land grant
11 when this tribe is an historical tribe.
12 Third question is as an historical descendent
13 of the original Avoyels ancestry, having been
14 said to be extinct. You can see they're not
15 extinct. There are six hundred (600) members
16 of our tribe that are still actively living
17 at this time. And I am pretty close to -
18 just remember, I was born in 1936. I'm
19 seventy-seven and a half (77½) years old. My
20 brother Ken is now the chief of the Avoyels
21 tribe. He is in his late sixties. So you
22 can see, we are not extinct. My mother died
23 about eight (8) years ago. She was ninety-
24 two (92) years old. She was born in 1910.
25 Her grandmother was Blackfoot. Her mother

1 was Blackfoot. Her father was a Benjamin who
2 was Apache. Like I said, there are two
3 hundred (200) family members right now of the
4 Avoyels/Taensa tribe. There are six hundred
5 (600) and something members total that are
6 still here that are direct descendant. All
7 of us are still pure. We did the DNA tests
8 like we were supposed to do, and it came out
9 ninety-nine point nine (99.9) still pure.
10 Because anybody we marry, anybody we marry
11 within this area, we're related to them.
12 We're either first, second, third cousin down
13 the line. All the people, would you stand,
14 please? Please stand. Every one of us here
15 are related. We have different names, but
16 we're either first or second cousin. We come
17 from the same root. So what I can't
18 understand is how can you use thirty-seven
19 (37) chief from a group that's still living,
20 you use their names, and yet deny them the
21 benefit, but you give it to a couple of
22 people that you want to come in, but you deny
23 the rest. Thank you for coming. Thank you
24 for letting me speak my peace.

25 BY LARRY ROBERTS:

1 Thank you. I'm not sure that we -
2 and it's not just with your comments,
3 but a lot of people's comments. I know
4 that we have comments on specific
5 matters, issues that are very factual,
6 specific to your circumstance. We're
7 more here to talk about sort of the
8 broader approach of the Part 83 process.
9 But if you want, we can certainly take
10 your comments, we'll have it all
11 transcribed, and maybe we can talk
12 during break.

13 BY EARL SYLVAIN:

14 But my point is I can't understand how we can be
15 recognized but then not given the benefit.

16
17 BY MR. KENNETH SYLVAIN:

18 Sir, that is only part of the complete
19 recognition. This is the complete
20 recognition. Do you want it?

21 BY LARRY ROBERTS:

22 Sure. Why don't we - I don't want
23 to get into the specific matters as part
24 of this public meeting.

25

1 BY MR. EARL SYLVAIN:
2 He just asked if you wanted the complete
3 recognition paper.
4 BY LARRY ROBERTS:
5 Sure.
6 BY KENNETH SYLVAIN:
7 That is the complete recognition.
8 BY LARRY ROBERTS:
9 Okay. Thank you.
10 BY MR. BOBBY REDHAWK STERLING:
11 Hello. My name is Bobby Redhawk Sterling. I am
12 the Chief of the Cherokees of Alabama. We meet all of
13 the criteria to be Federally recognized. We have been
14 working on it for quite a while. The only problems
15 that we have, and I'm sure every Native person in
16 Alabama, our the people did not go on the Trail of
17 Tears. My great great grandfather was John
18 (inaudible). He was Chief. He was born in North
19 Carolina in 1794, and he died in (inaudible) County in
20 1876.
21 BY LARRY ROBERTS:
22 Hold on one second. I'm sorry.
23 All right. Continue.
24 BY MR. BOBBY REDHAWK STERLING:
25 But all of our members in our tribe are direct

1 descendants of Native blood, full. And Dr. Earl keeps
2 asking me where was your chief fifty (50) years ago.
3 In the state of Alabama fifty (50) years ago you
4 couldn't live as an Indian group or an Indian tribe
5 because it just was illegal. They would not let you.
6 Our people had to hide out, work as sharecroppers, be
7 black, mulatto or whatever. But they could not live as
8 an Indian tribe. So we can't prove that. But our
9 genealogy proves who we are. That's the problem that
10 we have with our Federal papers. We've got our
11 petition that's #322. I would love for them to change
12 that in the criteria. We will make the rest of it.
13 But that's the one what we have problems with, because
14 it's just impossible. You couldn't do it. You just
15 could not do it. When I was a kid growing up, my dad
16 had twenty (20) brothers and sisters. And our house
17 was always full of people and they did some Native
18 studies. The law was (inaudible). So what we're
19 doing, we are losing our heritage, period. We cannot
20 do our ceremonies the way they should be done. And we
21 are not asking the government for money. We put in our
22 letter of intent "We do not want your money." We just
23 want to be able to be who we are, and we can create our
24 own funding. We would love to have schools, clinics,
25 houses, raise our own food, process it, not be filled

1 up with all these hormones and stuff that they shoot
2 stuff up with. We would just like to be who we are.
3 That's what the Creator made us; why can't we be that.
4 Thank y'all.

5 BY LARRY ROBERTS:

6 Thank you.

7 BY ROBERT CALDWELL:

8 Robert Caldwell again, Choctaw/Apache Community of
9 Ebarb. Petitioner #37. We agree with the
10 deletion of the criteria (a), external
11 observers identify group as Indian. By
12 relying excessively on external
13 characterizations of petitioners, the OFA is
14 privileged racial and racist, quote, "police"
15 regarding Indianness. History has shown that
16 people with African and Indian ancestry are
17 less to be regarded by others as Indian than
18 Indian people with equal amounts of white
19 ancestry. Similarly, in the full racial
20 taxonomy in the United States, being a
21 Spanish speaking community can lead a group
22 to be racialized or conceptualized as being,
23 quote, "Mexican." Which is seem as exclusive
24 of being Indian, regardless of how much
25 indigenous ancestry they may have. Such

1 outsider misidentification of an Indian tribe
2 should not be weighed against a tribe, but
3 rather be considered as evidence supporting
4 petitioners' claim of being a distinct
5 community. So we'd like to know if the
6 elimination of 83.7 (a), outside
7 characteristics of a group, that if they
8 will actually no longer be taken into account
9 or if there is (inaudible). Next, we believe
10 that interested parties have too much power
11 in this process. Potentially affected
12 property owners and economic motivations for
13 ensuring the tribe is never recognized should
14 not have a louder voice than those who know
15 the tribe's history and ethnology. If the
16 (inaudible) supposed to be an objective
17 social scientific process for ethno-
18 historical determination whether a tribe
19 exists or not, there is no justification for
20 considering potentially affected property of
21 legal interests. Interested parties
22 currently have the power to appeal
23 recognition decisions based not upon
24 historical facts, but upon their supposed
25 property interests. For this reason we would

1 like to see 83.11, the deletion of 83.11,
2 independent review, reconsideration and final
3 action. Next, we believe there should be a
4 timely transition from the moment of proposed
5 positive findings. As soon as a proposed
6 positive finding issues, the transition
7 process should begin towards the
8 establishment of Federal services and
9 government to government relations. The
10 process should be initiated at this point
11 rather than waiting up to six (6) months as
12 stated in 83.12 (d). Navigating the Federal
13 bureaucracy and Federal Indian policy is no
14 easy task. And the formalized process of
15 advising and needs assessment should begin
16 immediately to make it easier and faster for
17 newly recognized tribes to access available
18 services and protections. For this reason
19 the 83.12 © seems unnecessary against the
20 spirit of acknowledgment. I'm just going to
21 read one more for now.

22 BY LARRY ROBERTS:

23 There's no one lining up behind
24 you, so...

25 BY ROBERT CALDWELL:

1 Okay. The Office of Federal Acknowledgment
2 decisions too often read like a prosecutor's
3 brief. In responses to petitioner's, OFA's
4 language has occasionally been unrealistic
5 and unbalanced, saying there is, quote, "no
6 evidence" of Indian ancestry in communities,
7 when there is at least, at very least some
8 evidence, even if it is not the kind the OFA
9 accepts as proof. The change of working in
10 the 83.6 (d) is appreciated in the spirit.
11 And evidence should be viewed, again, in the
12 light most favorable to the petitioner. I'll
13 continue later. Thank you.

14 BY ANN TUCKER:

15 I am Ann Tucker from Muscogee Nation of Florida
16 group. We are petitioner #32, and we are
17 currently on active consideration with the
18 Office of Federal acknowledgment. I have
19 been at two testimonies on the process and
20 problems that our tribe has encountered. We
21 were in the original process before this, in
22 1977. We had documents filed. They were
23 returned to us. We started again. And
24 that's something that I know my tribal
25 council doesn't want to happen to us this

1 time. But what I wanted to tell you was,
2 while we are on active consideration, while
3 your offices are looking at us, call us. In
4 the last year noone has contacted us while we
5 have been extended six (6) months. We have
6 now been suspended by regulation. This is a
7 process that we have been in for over thirty
8 (30) years. So I ask that when you are
9 working with the tribe, work with the tribal
10 government. If there are questions that you
11 have, we can answer them. A lot of the times
12 we can put some of this aside that is of
13 concern if we are simply contacted. And I
14 just - I want to thank you for this, because
15 I know this is a difficult process and I know
16 this is a complicated process. And I
17 appreciate what you are trying to do. All of
18 our tribe government does. So thank you.

19 BY NANCY CARNLEY:

20 Nancy Carnley, the Ma-Chis, and that's spelled M-
21 a, hyphen C-h-I-s, Lower Creek Indian Tribe
22 of Alabama. I really appreciate what all the
23 government is doing to create and try to
24 clarify the process. We appreciate you
25 coming to the South and having a meeting with

1 us. The first thing I'd like to say is we
2 really need someone to take into
3 consideration the southern history of the
4 United States. We went through Trail of
5 Tears, Removal of the Five Civilized Tribes.
6 After it was promised us "You will become
7 U.S. Citizens. You become assimilated into
8 the white nation, the white world, you can
9 stay." That promise was broken to us, along
10 with other promises. And we can't hold what
11 our ancestors done no more than can we hold
12 what your ancestors done to us. So we need
13 to let bygones by bygones and start a whole
14 fresh new page. And do it in a loving,
15 caring, Christian or whatever faith you want
16 to do it, but have good faith to it.
17 Secondly, everything needs to be transparent.
18 There needs to be some checks and balances.
19 There needs to be a watch person, a watch
20 group created from both state and Federally
21 recognized tribes to come together and create
22 and watch, make sure that no one is trying to
23 back door, back stab, or any of the other
24 things that went on in the past. Also, we
25 need to create deadlines and use business

1 days instead of calendar days for everybody.
2 Forty-five (45) business days. Forty-five
3 (45) business days for the other groups. And
4 I'm going to go through a brief history of
5 Alabama history. We first started with the
6 settlers coming in from Georgia. They set
7 illegally in my home - in one of my home
8 communities, one of my home villages of what
9 is now present day known as Eufaula, Alabama.
10 The government forced them back into Georgia.
11 Then we went through all the war, the Creek
12 war, the Creek-Seminole war. Removal. Then
13 we come along to the Civil War. From the
14 Civil War, we go to the Era of
15 Reconstruction. The Era of Reconstruction,
16 our houses got burned. Then we went to the
17 history KKK. I don't know how many of you
18 have ever had KKK visit. I can be a true
19 witness of KKK in 1965. My daddy was
20 threatened; we was threatened. And it went
21 on up into the 1990s. They created us a
22 racial cleansing law in the state of Virginia
23 in 1924 when we became U.S. citizens. And it
24 just trickled on down. As today in the state
25 of Alabama, if you had an Indian child or an

1 Indian to die, you cannot have American
2 Indian put on your birth certificate. It
3 doesn't hurt another race but American
4 Indians. It doesn't hurt the Hispanics; it
5 doesn't hurt the African Americans; it
6 doesn't hurt the Caucasians. It hurts us.
7 We are not allowed to identify ourselves in
8 hospitals. They will identify you with what
9 they think you are. We have gone through so
10 many racial remarks and prejudice. As far as
11 1995 in the state of Alabama public school
12 system my children were being assaulted just
13 because they were American Indian. 1995, we
14 should have been long past this. I had to
15 get the United States Department of Education
16 Civil Rights Division involved. That is
17 discrimination. They had to rule and say
18 "You stop. These are Indian children.
19 They're entitled to a free and public
20 education." Our tribal house that held our
21 documents got burned in 2004 because we were
22 Indian and, heaven forbid, they thought they
23 might get something. Just for a few greedy
24 people, which the state never could prove who
25 it was. To this day I could probably tell

1 you who it was, but because I don't have the
2 proof, I'm not going to slander that person
3 or persons. It's over and over again what
4 the American Indian faces in the south. We
5 have a unique history, different from any
6 other group in the area of the United States.
7 The last thing I'd like to say, state tribes,
8 I know the state of Alabama, North Carolina,
9 South Carolina, Louisiana, other states, they
10 have a criteria to go through. We have the
11 criteria, we went through it. We went
12 through it and we got the state recognized.
13 We weren't one of the first tribes that got
14 state recognized. We were one of the first
15 tribes that did go through state recognition.
16 And I feel like the tribes that has to go
17 through the state recognition, it has rules
18 similar to y'all's, we should get an extra
19 point or something. Thank you.

20 BY LARRY ROBERTS:

21 Thank you.

22 BY YVONNE FERGUSON BOHNEE:

23 Yvonne Ferguson Bohnee, Point-Au-Chien Indian
24 Tribe. First, thank you very much for being
25 here and having a meeting for the

1 stakeholders, for all of the stakeholders to
2 participate. We know that the process is
3 broken, and we think that this is a step
4 forward. On behalf of the Point-Au-Chien
5 Indian Tribe, I'd like to make a couple of
6 comments about the working draft. And one
7 refers to some comments other folks have made
8 with regards to active consideration. There
9 are five (5) tribes in Louisiana who are on
10 active consideration right now. We have
11 amended - four of us have amended proposed
12 findings. And with the new regulations in
13 place, we agree that it's good to allow the
14 tribes to choose which process they would
15 like to be considered under. But I am
16 wondering whether we would receive a new
17 amended proposed finding or whether it would
18 be a final decision once we submit to the new
19 process. And that's - I'm not sure...

20 BY LARRY ROBERTS:

21 I think we're open to suggestions
22 at this point because we're at an early
23 stage in the discussion draft in terms
24 of mechanics, how that should work. So
25 if you have suggestions, especially

1 those petitioners that are in active
2 consideration, you know, we would
3 appreciate that input. I think as the
4 discussion drafts for right now, if you
5 chose to go under the new regulations,
6 then it would start over essentially.

7 BY YVONNE FERGUSON BOHNEE:

8 Yes. It wasn't clear to me, but I appreciate
9 that. I'll take another look at that and
10 we'll make a proposal. Also, we agree with
11 the changes to 1934 to the present in (d) and
12 ©. And I'd like to focus on criterion (e),
13 because for our tribes in Louisiana it's the
14 hardest criterion. Obviously, none of the
15 other criterion matter if you can't meet
16 criteria (e), which is the historical tribe.
17 And I appreciate that there is one added
18 subsection in criterion (e) to allow for
19 historians and anthropologists. And I heard
20 that you noted that that is to deal with
21 sometimes the controversies with the - the
22 controversies or how the genealogists may
23 view individuals because they're looking for
24 specific information. For the tribes of
25 Louisiana, specifically they're looking for

1 who are the parents of the progenitors from
2 1767, which is a time period that we don't
3 have information for. So I would - if that
4 is something definitely that you're looking
5 at, I would suggest that that is clearer in
6 the regulation. Because over time I think
7 the interpretation is changed within the
8 office. And we've seen over time with the
9 fact process, or Federal acknowledgment
10 process, that interpretations change and
11 become more difficult. And our friends here,
12 the Tunica Biloxi, they descend from five (5)
13 tribes. They're a small tribe and they were
14 able to meet this requirement over time, the
15 interpretation of what it means to establish
16 a historical tribe and how you join together,
17 how you meet that criterion has changed. So
18 one of the suggestions we have is that if you
19 actually exist as a political unit from - I
20 would say from when the time your state
21 became part of the United States, that you
22 would look at that and not go back prior to
23 that time period where you may not have any
24 historical evidence. I know that there was
25 some guidance that was issued by Carl Artner,

1 I think it was in 2008 or 2009, stating that
2 the sustained contact for historical time to
3 the present begins at 1789. I don't see this
4 in the working draft, but I also don't see
5 sustained contact in the criteria. So I
6 would just make that suggestion, that the
7 Federal relationship can't start when the
8 United States hasn't been created. And so it
9 shouldn't go back prior to, at a minimum,
10 1789. And for those states in which they
11 weren't part of the United States yet, it
12 should go back to whenever that state became
13 part of the union. Just because that - if
14 you were existing as a political unit, I
15 think that should satisfy it. I have a
16 couple more comments that deal more with
17 transparency, because I think that's a big
18 issue for our tribe. I don't think that
19 there is a solution in this working draft for
20 the lack of transparency. And what I mean by
21 that, although it says that third parties
22 must submit copies of their comments to
23 petitioning tribes, I don't know how you
24 enforce that. And there are lots of third
25 party individuals who submit comments, and we

1 shouldn't have to FOIA those documents. We
2 know what's in the file. And I know that
3 within the working draft they say - it says
4 during the response period they shall make
5 available any records not already held. And
6 I just want to mention our experience dealing
7 with FOIA. We made an initial FOIA request
8 in 2002 for a specific document. It was one
9 document. And it took the Department after
10 two years only fifteen (15) minutes to obtain
11 the document, but I received it two years
12 later. When we went on active status, there
13 were a ton of documents which we didn't have
14 access to. We didn't know what was in our
15 file. We submitted a FOIA request for copies
16 of the materials, and it took over seven (7)
17 years, several additional FOIA requests, and
18 numerous visits to OFA. And these documents
19 were finally received, not all of them, but
20 most of them, in November of 2012. And we're
21 on active consideration. And all of these
22 documents, initially we were told it would
23 cost us over Five Thousand Dollars (\$5,000).
24 And all of these documents are scanned in.
25 So, you know, and over time they waived the

1 cost of producing it because it took so long.
2 But I think that's a huge consideration and
3 something that should be looked at. And it
4 goes towards the transparency of the process.
5 And also a lot of notes were withheld, the
6 expert notes. And I think that is something
7 that we would want to look at. Within
8 litigation, I appreciate that in the working
9 draft there is an opportunity to basically
10 cross-examine the expert. I appreciate that.
11 I think that tribes appreciate that
12 opportunity, because we feel like we don't
13 receive real answers to our questions. But I
14 would caution eliminating any review. I know
15 that the IBIA review right now is not
16 effective. But you may want to consider some
17 review. Over time, under another
18 administration, the regulations may be
19 interpreted differently. They may not apply
20 the standard of proof as it's set out. And I
21 think there should be an opportunity for
22 review. Thank you.

23 BY LARRY ROBERTS:

24 Thank you.

25 BY MARY SIXWOMEN BLOUNT:

1 My name is Mary Sixwomen Blount. I am the tribal
2 administrator for the Apalachicola Band of
3 Creek Indian. We have had the pleasure of
4 already responding to your draft proposal.
5 So I just wanted to come and say just a
6 couple of things at this time. One, our
7 disappointment in everything, underscoring
8 from what the council said of last meeting,
9 was we were disappointed in that there was no
10 option in which we have input on staffing.
11 Because, as so many of the people who have
12 spoken before, it tells me that we are an
13 international multi-cultural group of very
14 important people. Our cases are being
15 reviewed by people who apparently do not
16 fully understand either the cultural
17 significance of each tribe, or they would not
18 just be saying "Let's hire an intermediate
19 bureaucrat to review all Indians who are all
20 the same." Each culture has its own nuances
21 and differences. And it seems to me - like,
22 say, even the cultural piece of it. Our
23 tribe, particularly, was the first tribe that
24 was ever contrived by the United States as a
25 gift from President Andrew Jackson. And we

1 have the metal. We have the documents. I
2 have the surname of the first chief. And
3 it's taken twenty (20) years and we have
4 still not been reconstructed or re-recognized
5 as a standing organization. So let me say
6 this, the Bureau of Indian Affairs or DOFA,
7 whoever it was that wrote these or will write
8 anything in the future, you are excellent,
9 absolutely excellent at writing rules. What
10 you have a little bit of problem with are the
11 people that you hire to administer and to
12 judge that which they do not know and lack
13 major understanding of. We have no input for
14 that. All we can do is respond to what you
15 have said you need or would like to hear from
16 us. But we have no say over who reviews our
17 case or how ugly or how nice we are treated
18 by any of them. And that brings us great
19 sadness. Thank you.

20
21 BY MR. LARRY ROBERTS:

22 The idea, if I haven't said before,
23 the idea with the regulations is to have
24 input from everyone in terms of
25 objective criteria, so everybody knows

1 the rules of the road as they're going
2 in. I mean, that's the goal of the
3 objective criteria. So any public
4 comments on that or written comments
5 would be appreciated.

6 BY LORA ANN CHAISSON:

7 Hi, my name is Lora Ann Chaisson. I am elected
8 Vice Principal Chief for the United Houma
9 Nation. It's great concerns to me with the
10 current system is its handling of the
11 splinter groups. Allowing for the
12 preferential treatment by attaching to a host
13 tribe and picking and choosing the pieces of
14 historical data submitted by the host tribe.
15 And they are allowed a second bite at the
16 apple by being given the opportunity to
17 submit their vision after the fact. This
18 process has encouraged splinter groups and
19 political strife. The draft regulations
20 don't say how it will treat splinter groups.
21 We don't think we should continue to all be
22 treated as one petition. If and when we
23 proceed under the new regulations, we think
24 that we should be separated from the other
25 petitioners, and each required to submit

1 their own separate petition. We recommend
2 splinter groups not be allowed to attach to
3 host petition, and have to start as new
4 applicants. If splinter groups want to stand
5 on their own feet, then they should start
6 from scratch like we have. I am also
7 concerned that the proposed changes include
8 the removal of the proposed finding and
9 rebuttal process. In our own petition, due
10 to the size and volume of our documentations
11 on file, some of the materials were
12 overlooked in the initial review. Through
13 the rebuttal process we were able to reach
14 our OFA staff to inform all the information
15 that was overlooked. So our recommendation
16 was that they actually keep that.

17
18 BY LARRY ROBERTS:

19 I don't think we've changed that
20 proposed finding and rebuttal process
21 So that when the proposed finding is
22 issued, then third parties can submit
23 evidence and given an opportunity to
24 rebut that. So if you are reading that
25 that has changed in there, I don't think

1 that that was our intent. So we will
2 take a close look at that. And if you
3 are able to point us to the particular
4 sections, that would be helpful.

5 BY JACKIE WOMACK:

6 Hello, I'm Jackie Womack, and I'm Chief or
7 Chairman of 4 Winds Cherokees in Louisiana.
8 I don't know if Ms. Appel is here or not, but
9 her crew has been real good to me these last
10 two days, answering questions for me. And
11 it's interesting to me that, just listening
12 to the comments, it seems like everybody in
13 the South is about having the same problems
14 over and over. It's interesting. And it's
15 good that y'all brought us together here so
16 we can hear each other's concerns. And for
17 y'all to see what we are facing, you know.
18 Of course, I'm from the Eastern Cherokee.
19 Our tribe had went to Georgia and got some
20 way in the Trail and Tears and got lost off
21 down towards Louisiana from the Trail of
22 Tears. And ours has been a hard time trying
23 to get our history together. But we have
24 finally, we think we are ready, and we're
25 fixing to apply for our recognition.

1 Hopefully we will. But I thank y'all for
2 having this. I think it's real good. I've
3 heard some wonderful comments today that was
4 interesting, you know, about all of this.
5 And it helps us to learn more from others by
6 having this meeting. We thank y'all for
7 having us.

8 BY LARRY ROBERTS:

9 Thank you.

10 BY ROBERT CALDWELL:

11 Robert Caldwell, Choctaw-Apache Community of
12 Ebarb. I guess the next point that I really
13 wanted to make is that we appreciate the
14 plain language that's going to be
15 forthcoming. We think it is absolutely
16 necessary. And the Powerpoint is also
17 useful. So we will be sharing that. We
18 think, in addition to plain language, it
19 would be useful to have some kind of
20 explanation to achieve, you know, full and
21 effective public comment, some kind of
22 explanation of the reasons for various
23 proposed changes. Now, I know a lot of this
24 stuff has been demanded by us, you know,
25 those seeking acknowledgment, but we would

1 really like to know what the justification is
2 on each one so that we can get a better sense
3 of the implications of some of them.
4

5 BY LARRY ROBERTS:

6 If I could interrupt you on that.
7 When we do issue a proposed rule, we
8 will have a preamble for that proposed
9 rule that will attempt to sort of
10 explain why we're making various
11 changes. But we wanted to get out the
12 discussion early on to receive comments
13 on it to see how we are moving and how
14 we should be moving forward. But the
15 proposed rule will have it, a discussion
16 in terms of those changes.
17

18 BY ROBERT CALDWELL:

19 Secondly, I know we've already addressed this, but
20 I think it's important that the limit on
21 pages in the petition should clearly exclude
22 supporting documentation, and petitioners
23 should be able to request additional pages
24 for good cause shown. There may be cases
25 where, you know, I don't what the proposed

1 limit is, what XX means. If it means fifty
2 (50) pages, I mean, our prior petition said,
3 you know, basically it was way too short, and
4 it was, you know, in that range. So if it's
5 three hundred (300) pages or five hundred
6 (500) pages, you know, maybe that makes more
7 sense. But I would certainly note that
8 shorter might be easier for those of us in
9 the room to achieve. But some way in which
10 it's clear that this does not include
11 supporting documentation. We also support
12 the proposal to add the expedited favorable
13 finding for tribes mentioned in 83.10. We
14 think that a proposed expedited finding
15 process would help clear the backlog of
16 petitions and help even those of us who
17 wouldn't qualify under that expedited
18 finding. Lastly, we think - not lastly, but
19 we believe that the changed regulation should
20 clarify that the assistant secretary's role
21 is to adjudicate a petition; not to act as an
22 adversary party. Lastly, I think it's
23 important for us just to say until you hear
24 this, indigenous scripts have survived in
25 many forms. And it's important to nurture

1 them where they persist. I think it bears
2 repeating the tribes that have not been
3 Federally recognized are not always going to
4 look exactly like the tribes that have been
5 Federally recognized for hundreds of years
6 for a variety of reasons. Brian Papodic
7 (spelled phonetically) has written about that
8 through Tribes in Louisiana, and there are
9 others that I could suggest good readings on.
10 But I think it's important to say that we are
11 not any better or worse than Federally
12 recognized groups; we're just different. Yet
13 we cherish our indigenous communities. And
14 Federal government is legally and morally
15 obligated to recognize our status as
16 indigenous peoples under the UN framework,
17 and as indigenous peoples who have survived
18 hundreds of years despite simulation and
19 pressure. So I want to end on thanking you
20 for bringing us all together, as other people
21 have said, and turn it over to my chairman,
22 John Procell.

23 BY JOHN PROCELL:

24 Good morning. I just want to let y'all know that
25 we really appreciate what y'all are doing

1 here. But, you know, I never did understand
2 why it shouldn't be all right, hey, why don't
3 y'all come out and visit some of the people.
4 Y'all have got all the good jobs. Come out
5 and see who we are. Come out and see that we
6 have the first Native American school in the
7 state of Louisiana. Come see our people. I
8 invite all of y'all to come be with us and
9 see who we are. Thank you very much.

10 BY STEPHANIE WEBB:

11 Good afternoon, my name is Stephanie Webb. I am a
12 member of the Avoyel Tribe of Louisiana.
13 This is new to me. I want to thank y'all for
14 doing this. We put application in in 2000,
15 and we are still waiting. I want to thank
16 y'all. We have hit a lot of obstacles trying
17 to get recognized. One of them is the
18 Tunica, when they got recognized in 1981,
19 there were five (5) tribes that was listed to
20 get recognized. One was the Ofo, the Tunica,
21 the Biloxi, the Avoyel. We're state
22 recognized. We're not Federally recognized
23 like the Tunica. The only thing our tribe is
24 looking for is to be Federally recognized.
25 We are not looking for money. We're not

1 looking for things like this. We just want
2 to show people in the nation the kind of
3 people. Our tribe, we've always helped
4 people. We've been here since 3000 B.C.
5 When man first came here we took them in, we
6 taught them our ways. And because of the
7 things that we did for these people to have a
8 better life when they settled here, our
9 people lost their life for that. We're not
10 here to slander anyone. A lot of our history
11 was pretty much pushed under the rug, because
12 people think that the tribe that existed here
13 when Avoyelles Parish was formed was the
14 Tunica. It wasn't the Tunica. It was the
15 Avoyel. The Avoyel took the Tunica tribe in
16 because the Natchez Indians were going to
17 kill them. So to keep them from being killed
18 off, the Natchez Indians asked the Avoyel
19 tribe to take them in. And we did that.
20 Because they were dying. And today we just
21 ask to be recognized the same way they are.
22 And it's been a hard road for us. What we
23 don't understand is for this tribe to be
24 recognized they have five tribes. We are one
25 of those tribes. And we've been fighting to

1 get recognized and we keep getting pushed
2 off. As a tribe, I mean, I'm not going to go
3 through a lot of things we've - we've been
4 through a lot of hardship, we lost lives.
5 And we want people to know that we are not
6 extinct. We still exist here in Avoyelles
7 Parish. And I appreciate y'all taking the
8 steps to make it a little bit easier for us
9 to get recognition. Thank you.

10 BY LARRY ROBERTS:

11 It's now 2:40. Given that there's
12 no one at the microphone to provide
13 comments at this point, why don't we
14 take a ten (10) minute break here. We
15 will reconvene at 2:50. Thank you.

16
17 (Briefly off the record)

18 BY LARRY ROBERTS:

19 We are back. If there are any
20 comments or questions, the microphone is
21 yours.

22 BY SHIRELL PARFAIT DARDAR:

23 Hi, good afternoon. I am Chief Shirell Parfait
24 Dardar with the Grand Caillou Dulor Band of
25 the Biloxi-Chitimacha Choctaw. Thank you

1 very much for having this meeting and letting
2 us get the chance to give our comments and
3 suggestions. One of the issues that we are
4 concerned about is we are not exactly very
5 comfortable with the page limit on the
6 petition submission. One thing you need to
7 understand is that each tribe is very unique.
8 And in a lot of cases, if we limit the amount
9 of pages that they are allowed to submit,
10 that could take away from the chances of
11 gaining Federal acknowledgment by being able
12 to explain it thoroughly. The other thing is
13 we do agree that we should be allowed to
14 submit it in any readable format. I think
15 that is a pretty good change, and it is less
16 expensive tribes, and we like trees, so I
17 think that's why it's a very good point. The
18 other thing is if you are going to have a
19 hearing, we would prefer that they be held in
20 or near the tribal community so that is it
21 less expensive for the tribe, but it also
22 gives you guys the opportunity to experience
23 our communities as well. Thank you.

24 BY LARRY ROBERTS:

25 Thank you.

1 BY VIOLET HAMILTON:

2 I am Violet Hamilton. I'm another one of the
3 state recognized Indians from Alabama. I'm
4 one of your senior citizens. I've lived in
5 Indian country all my life. I was one of the
6 final six that we had four years of working
7 before we were recognized by our legislation
8 as a union. When we first started, started
9 talking to the legislators, they said there
10 wasn't no Indians in Alabama. And I said
11 "Well, they're here." But we had to suppress
12 our lineage. We could not talk about being
13 Indian. Our children were told to be quiet,
14 don't answer family questions. Part of that
15 was because it was 1927 before it became
16 illegal to kill an Indian in Alabama. And
17 it's well documented that they would have
18 Indian hunts and chase the Indian down like
19 they were running a deer or something of that
20 nature, in my own family. I remember some of
21 the elderly people when I was growing up, the
22 women wore bandanas tied in a knot. And I
23 began to ask why. And their reply was "We
24 don't want our hair long." And several of
25 them wore it until they went to the grave.

1 In fact, their family put the bandanas on
2 them. And we went through a very lengthy
3 process for state recognition. We are
4 governed by the administrative code, and it's
5 very strict. And I do feel that the Indians
6 who are state recognized and have been for
7 many years should be given extra preference
8 for Federal recognition.

9 BY LARRY ROBERTS:

10 Thank you.

11 BY CHARLES YOW:

12 My name is Charles Yow. Last name is spelled Y-o-
13 w. I am with the United Cherokee Ani-Yun-
14 Wiya. We are a state recognized tribe in the
15 state of Alabama. We've actually gone
16 through an administrative process very
17 similar to the BIA process. It's standard
18 but it's in place in Alabama. The
19 administrative process that was mentioned
20 just a second ago relies on a very large
21 amount of the same criteria that are already
22 in place with the BIA. Our concern isn't so
23 much for the criteria. One of the biggest
24 concerns that we really do have is the way
25 that the BIA's bureaucracy has really had a

1 floating interpretation of the way that the
2 Federal regulations should be interpreted.
3 And this can be seen very clearly through the
4 Federal acknowledgment process in provisional
5 tribes that went through the process had
6 actually quite a bit smaller applications
7 when all was said and done than some of the
8 more recent tribes. The (inaudible) when all
9 was said and done their application would
10 have filled an eighteen wheeler truck
11 basically. Whereas the original applications
12 were only a couple hundred pages long. That
13 revolving and changing process is one that we
14 think is a serious problem. And we certainly
15 appreciate the revisions that have been made
16 and are very supportive of those. I'd also
17 like to point out that, as has been mentioned
18 several times, there is a long history of
19 state recognition of Indian tribes in the
20 United States, particularly here in the state
21 of Louisiana. The Tunica Biloxi were state
22 recognized before being Federally recognized.
23 The Jena Choctaw were state recognized before
24 Federally recognized. In the state of
25 Alabama, the Poarch Creek were state

1 recognized before being Federally recognized.
2 And the list goes on. It's really an issue,
3 I think, that we see the states recognize on
4 a local level the existence of Indians
5 (inaudible) The locals recognize the
6 existence of Indians in their communities.
7 And it just takes a while for the Federal
8 government to catch on that we actually do
9 exist. So we welcome the revisions. We do
10 appreciate them. One final suggestion would
11 be if the appeal is going to be a negative,
12 adverse finding, if it's going to get a
13 Federal court to review would be a good way
14 to address that. That would take a lot of
15 the concerns that the tribes have addressed
16 over issues with certain innate bureaucrats
17 that we've addressed repeatedly in various
18 meetings, take it out of their hands and give
19 it a little more transparency and a stronger
20 sense of justice and fair play if a Federal
21 court is actually reviewing that decision
22 from the very beginning instead of just
23 reviewing whether or not the steps were
24 followed. Thank you.

25 BY LARRY ROBERTS:

1 Thank you.

2 BY JAMES WRIGHT:

3 Chief James Wright of the Ma-Chis Lower Creek
4 Indian Tribe of Alabama. I just have one
5 brief comment or recommendation for the
6 criteria. That if your tribal community was
7 ever on Federal land, such as a national
8 forest, Department of Defense, land being
9 held, or after 1900 your tribal community was
10 removed from land that the Federal government
11 become ownership of, or they had, for
12 instance, came in to do work in a national
13 forest and find a community alive there and
14 remove them, you know, I think that should be
15 placed somewhere in the criteria, because you
16 have so much wilderness that you're taking
17 into consideration when you deal. Because
18 the Native American community a lot of times
19 didn't want to be found due to the removal or
20 the killing of the people. So you would
21 literally hide out. Sometimes it would be in
22 the deepest forest. And just like if you
23 tried to go out now and find like - I was
24 going to mention on the unabomber. He was
25 not hiding out on Wall Street. He was hiding

1 out in a one room shack in the mountains.
2 That's what took us so long to find him
3 because he didn't want to be found. So many
4 of the Native American didn't want to be
5 found in the 1900s due to fear. So with that
6 being said, any time that they was found
7 living or removed from U.S. Government land,
8 I think that should be considered in the
9 criteria some way. Thank you.

10 BY LARRY ROBERTS:

11 Thank you.

12 BY GARY WALLS:

13 My name is Gary Walls, Chief of the Cherokee tribe
14 of Mississippi, petition #326. I understand
15 that you want to make the rules a little more
16 transparent. But I'd like to suggest we
17 establish some kind of precedent on what is
18 acceptable for proof. Other tribes will do
19 something for proof, and then they tell us
20 that we can't use the same thing. We need
21 some kind of definition of why we cannot use
22 the same information that has been acceptable
23 for someone else. And that has happened to
24 us. There should be, in my opinion, some
25 sort of precedent on proving criteria. If

1 it's been accepted before, why disallow it
2 next time.

3 BY LARRY ROBERTS:

4 Okay. Thank you very much.

5 BY RUFUS DAVIS:

6 I'm Rufus Davis, Chief of the Adai Nation,
7 Robeline, Louisiana. First of all, I'd like
8 to thank you guys and thank President Obama
9 for initiating changes to the regulations.
10 Our tribe certainly supports those changes in
11 them. And hopefully it will just be a start
12 to do better things. It's many things that I
13 think can be done. But it's hard to just get
14 these comments out. What I'd like to do is -
15 we will get minutes of this meeting, right,
16 the morning and the afternoon meeting?

17
18 BY LARRY ROBERTS:

19 It will be put up on our website.

20 BY RUFUS DAVIS:

21 On your website, okay. And is your website on
22 this paperwork?

23 BY LIZ APPEL:

24 It's on the back.

25 BY LARRY ROBERTS:

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It's www.bia.gov.

BY RUFUS DAVIS:

Okay. Appreciate it. We can sit up here all day and talk about it, but what I'd like to do is just take a minute and read the criteria that's being proposed and have our professional team evaluate, and we can write - we've got until August 16th, right, to write in comments?

BY LARRY ROBERTS:

Yes, and then we will issue - we will move forward with proposed ruling, and then you will have an opportunity to provide comments on that proposed ruling.

BY RUFUS DAVIS:

Okay. Thank you very much.

BY YVONNE FERGUSON BOHNEE:

I have one additional comment. Yvonne Ferguson Bohnee. I have one additional comment, because this has come up several times with regards to endogamy and how that percentage is developed. Whether you have two tribal members who are married to each other, is

1 that considered as two marriages or one
2 marriage. Because you could have a
3 significant number of your population who
4 inter marries, but it doesn't rise to fifty
5 percent (50%) because of the way it's
6 treated. And I think having some sort of
7 guidance as part of the process with regards
8 to endogamy, since it is relied upon already.
9 Whatever that percentage is, fifty (50)
10 percent or whatever. What is the standard
11 for determining endogamy.

12 BY NANCY CARNLEY:

13 Nancy Carnley with Ma-Chis Lower Creek Indian
14 Tribe, Alabama. I have two questions. When
15 will y'all put the hearing, the stuff that
16 we're doing now, when it is going to be where
17 we can go on and listen to it on the website?

18
19 BY LARRY ROBERTS:

20 There will just be paper
21 transcripts. There won't be audio.
22 Well, it depends on each court reporter,
23 their time frame. So we're hoping that
24 we will get them on the website a couple
25 of weeks after - this is our last one.

1 So hopefully we will start seeing some
2 of the public meetings and
3 consultations on our web page pretty
4 soon.

5 BY NANCY CARNLEY:

6 And my second question I have, when you put it out
7 in the Federal register for the final - for
8 the public comment section, any changes that
9 people are submitting, will they be taken
10 into consideration for possible changes on
11 your final rule or are they just going to be
12 ignored?

13 BY LARRY ROBERTS:

14 We will consider all comments.

15 BY JOHN VOTTA:

16 John Votta Potawatomi Ottawa Ojibwe. I believe I
17 was adopted in the late 60s, early 70s. So
18 my situation is said to be, not necessarily
19 unique, but different from any of the people
20 here today. I probably represent a class of
21 people. And while whatever their intent
22 might have been, some of us later found
23 ourselves happy living in the woods. So when
24 you recognize us as such, if you could just
25 be helpful as to find our proper place with

1 our proper tribal affiliation, that would be
2 very helpful and effective. Thank you.

3 BY MELISSA WRIGHT:

4 Melissa Wright, Ma-Chis Lower Creek Indian Tribe
5 of Alabama. I just want to make a comment.
6 You said that you are receiving comments - it
7 says would a standard form for petitions be
8 helpful. I believe it would. That's is what
9 I have to say.

10 BY MR. LARRY ROBERTS:

11 Okay. Thank you. It's 3:10 now.
12 I don't want to rush anyone. I think we
13 will give it a couple more minutes to
14 see if you have any comments you want to
15 make. If not, we will end early this
16 afternoon. I certainly don't want to
17 preclude anyone from making comments
18 that want to do so. Is there anyone
19 else that wants to make any final
20 comments?

21 BY UNIDENTIFIED SPEAKER:

22 I wanted to say thank you to the Lieutenant Moot,
23 I think was his name, who made arrangements
24 for us after we were dismissed from the
25 morning meeting. He made arrangements for us

1 to have a caucus room upstairs. It was very
2 comfortable, offered drinks. And I am, and I
3 am sure everybody who is with me here was
4 very, very pleased to get a chair, because
5 there was nowhere to sit. There were many
6 elders and many disabled people here. So we
7 appreciate that courtesy from the local
8 tribe. Thank you.

9 BY LARRY ROBERTS:

10 Okay. It looks like there are no
11 other comments or questions for today.
12 I want to thank you all for attending.
13 I encourage you to submit written
14 comments by August 16th. I want to say
15 thank you to the Tunica Biloxi tribe for
16 opening this suite.

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18 (CONCLUDED AT 3:13 P.M.)
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C E R T I F I C A T E :

I, Dori Glisson Ard, to hereby certify that the foregoing 143 pages are a true and accurate transcription to the best of my understanding and ability, recognizing the "public forum" nature of the meeting not under my control.

GIVEN UNDER MY HAND AND SEAL OF OFFICE, on this, the 27th day of August, 2013.

DORI GLISSON ARD